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OFFICIAL DOCUMENTS

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OFFICIAL DOCUMENTS

THE CHINO-JAPANESE TREATIES AND EXCHANGES OF NOTES OF MAY 25,
1915¹

TREATY RESPECTING THE PROVINCE OF SHANTUNG

His Excellency the President of the Republic of China and His Majesty the Emperor of Japan, having resolved to conclude a treaty with a view to the maintenance of general peace in the Extreme East and the further strengthening of the relations of friendship and good neighborhood now existing between the two nations, have for that purpose named as their plenipotentiaries, that is to say:

His Excellency the President of the Republic of China, Lou Tseng-tsiang, *Chung-ching*. First Class *Chia Ho* Decoration, Minister of Foreign Affairs.

And His Majesty the Emperor of Japan, Hioki Eki, *Jushii*, Second Class of the Imperial Order of the Sacred Treasure, Minister Plenipotentiary, and Envoy Extraordinary;

Who, after having communicated to each other their full powers and found them to be in good and due form, have agreed upon and concluded the following articles:

ARTICLE 1

The Chinese Government agrees to give full assent to all matters upon which the Japanese Government may hereafter agree with the German Government relating to the disposition of all rights, interests and concessions which Germany, by virtue of treaties or otherwise, possesses in relation to the Province of Shantung.

ARTICLE 2

The Chinese Government agrees that as regards the railway to be built by China herself from Chefoo or Lungkow to connect with the

¹ Reprinted from the *Peking Gazette* of May 27, 1915, and the *Far Eastern Review* for May, 1915, as a complete and authoritative English translation.

Kiaochow-Tsinanfu railway, if Germany abandons the privilege of financing the Chefoo-Weihsien line, China will approach Japanese capitalists to negotiate for a loan.

ARTICLE 3

The Chinese Government agrees in the interest of trade and for the residence of foreigners, to open by China herself as soon as possible certain suitable places in the Province of Shantung as commercial ports.

ARTICLE 4

The present treaty shall come into force on the day of its signature.

The present treaty shall be ratified by His Excellency the President of the Republic of China and His Majesty the Emperor of Japan, and the ratification thereof shall be exchanged at Tokio as soon as possible.

In witness whereof the respective plenipotentiaries of the high contracting parties have signed and sealed the present treaty, two copies in the Chinese language and two in Japanese.

Done at Peking this twenty-fifth day of the fifth month of the fourth year of the Republic of China, corresponding to the same day of the same month of the fourth year of Taisho.

EXCHANGE OF NOTES RESPECTING SHANTUNG

Note

Peking, the 25th day of the 5th month of the 4th year of the Republic of China

Monsieur le Ministre,

In the name of the Chinese Government I have the honor to make the following declaration to your Government:—"Within the Province of Shantung or along its coast no territory or island will be leased or ceded to any foreign Power under any pretext."

I avail, etc.,

(Signed) LOU TSENG-TSIANG.

His Excellency,

HIOKI EKI,

Japanese Minister.

Reply

Peking, the 25th day of the 5th month of the 4th year of Taisho

Excellency,

I have the honor to acknowledge the receipt of your excellency's note of this day's date in which you made the following declaration in the name of the Chinese Government: "Within the Province of Shantung or along its coast no territory or island will be leased or ceded to any foreign Power under any pretext."

In reply I beg to state that I have taken note of this declaration.

I avail, etc.,

His Excellency,

(Signed) HIOKI EKI.

LOU TSENG-TSIANG,

Minister of Foreign Affairs.

EXCHANGE OF NOTES RESPECTING THE OPENING OF PORTS IN SHANTUNG

Note

Peking, the 25th day of the 5th month of the 4th year of the Republic of China

Monsieur le Ministre,

I have the honor to state that the places which ought to be opened as Commercial Ports by China herself, as provided in Article 3 of the Treaty respecting the Province of Shantung signed this day, will be selected and the regulations therefor will be drawn up, by the Chinese Government itself, a decision concerning which will be made after consulting the Minister of Japan,

I avail, etc.,

His Excellency,

(Signed) LOU TSENG-TSIANG.

HIOKI EKI,

Japanese Minister.

Reply

Peking the 25th day of the 5th month of the 4th year of Taisho

Excellency,

I have the honor to acknowledge the receipt of your excellency's note of this day's date in which you stated "that the places which ought to be

opened as commercial ports by China herself, as provided in Article 3 of the treaty respecting the province of Shantung signed this day, will be selected and the regulations therefor, will be drawn up by the Chinese Government itself, a decision concerning which will be made after consulting the Minister of Japan."

In reply, I beg to state that I have taken note of the same.

I avail, etc.,

(Signed) HIOKI EKI.

His Excellency,

LOU TSENG-TSIANG,

Minister of Foreign Affairs.

EXCHANGE OF NOTES RESPECTING THE RESTORATION OF THE LEASED
TERRITORY OF KIAOCHOW BAY

Note

Peking, the 25th day of the 5th month of the 4th year of Taisho

Excellency,

In the name of my Government I have the honor to make the following declaration to the Chinese Government:

When, after the termination of the present war, the leased territory of Kiaochow Bay is completely left to the free disposal of Japan, the Japanese Government will restore the said leased territory to China under the following conditions:

1. The whole of Kiaochow Bay to be opened as a commercial port.
2. A concession under the exclusive jurisdiction of Japan to be established at a place designated by the Japanese Government.
3. If the foreign Powers desire it, an international concession may be established.
4. As regards the disposal to be made of the buildings and properties of Germany and the conditions and procedure relating thereto, the Japanese Government and the Chinese Government shall arrange the matter by mutual agreement before the restoration.

I avail, etc.,

(Signed) HIOKI EKI.

His Excellency,

LOU TSENG-TSIANG,

Minister of Foreign Affairs.

Reply

Peking, the 25th day of the 5th month of the 4th year of the Republic of China

Monsieur le Ministre,

I have the honor to acknowledge the receipt of your excellency's note of this day's date in which you made the following declaration in the name of your Government:

"When, after the termination of the present war, the leased territory of Kiaochow Bay is completely left to the free disposal of Japan, the Japanese Government will restore the said leased territory to China under the following conditions:

1. The whole of Kiaochow Bay to be opened as a commercial port.
2. A concession under the exclusive jurisdiction of Japan to be established at a place designated by the Japanese Government.
3. If the foreign Powers desire it, an international concession may be established.
4. As regards the disposal to be made of the buildings and properties of Germany and the conditions and procedure relating thereto, the Japanese Government and the Chinese Government shall arrange the matter by mutual agreement before the restoration."

In reply, I beg to state that I have taken note of this declaration.

I avail, etc.,

(Signed) LOU TSENG-TSIANG.

His Excellency,

HIOKI EKI,

Japanese Minister.

TREATY RESPECTING SOUTH MANCHURIA AND EASTERN INNER MONGOLIA

His Excellency the President of the Republic of China and His Majesty the Emperor of Japan, having resolved to conclude a treaty with a view to developing their economic relations in South Manchuria and Eastern Inner Mongolia, have for that purpose named as their plenipotentiaries, that is to say;

His Excellency the President of the Republic of China, Lou Tseng-tsiang, *Chung-ching*, First Class *Chia-ho* Decoration, and Minister of Foreign Affairs; and His Majesty the Emperor of Japan, Hioki Eki, *Jushii*, Second Class of the Imperial Order of the Sacred Treasure, Minister Plenipotentiary and Envoy Extraordinary;

Who, after having communicated to each other their full powers, and found them to be in good and due form, have agreed upon and concluded the following articles:

ARTICLE I

The two high contracting parties agree that the term of lease of Port Arthur and Dalny and the terms of the South Manchuria Railway and the Antung-Mukden Railway, shall be extended to 99 years.

ARTICLE II

Japanese subjects in South Manchuria may, by negotiation, lease land necessary for erecting suitable buildings for trade and manufacture or for prosecuting agricultural enterprises.

ARTICLE III

Japanese subjects shall be free to reside and travel in South Manchuria and to engage in business and manufacture of any kind whatsoever.

ARTICLE IV

In the event of Japanese and Chinese desiring jointly to undertake agricultural enterprises and industries incidental thereto, the Chinese Government may give its permission.

ARTICLE V

The Japanese subjects referred to in the preceding three articles, besides being required to register with the local authorities passports which they must procure under the existing regulations, shall also submit to the police laws and ordinances and taxation of China.

Civil and criminal cases in which the defendants are Japanese shall be tried and adjudicated by the Japanese consul; those in which the defendants are Chinese shall be tried and adjudicated by Chinese authorities. In either case an officer may be deputed to the court to attend the proceedings. But mixed civil cases between Chinese and Japanese relating to land shall be tried and adjudicated by delegates of both nations conjointly in accordance with Chinese law and local usage.

When, in future, the judicial system in the said region is completely

reformed, all civil and criminal cases concerning Japanese subjects shall be tried and adjudicated entirely by Chinese law courts.

ARTICLE VI

The Chinese Government agrees, in the interest of trade and for the residence of foreigners, to open by China herself, as soon as possible, certain suitable places in Eastern Inner Mongolia as commercial ports.

ARTICLE VII

The Chinese Government agrees speedily to make a fundamental revision of the Kirin-Changchun Railway Loan Agreement, taking as a standard the provisions in railway loan agreements made heretofore between China and foreign financiers.

When in future, more advantageous terms than those in existing railway loan agreements are granted to foreign financiers in connection with railway loans, the above agreement shall again be revised in accordance with Japan's wishes.

ARTICLE VIII

All existing treaties between China and Japan relating to Manchuria shall, except where otherwise provided for by this treaty, remain in force.

ARTICLE IX

The present treaty shall come into force on the date of its signature. The present treaty shall be ratified by His Excellency the President of the Republic of China and His Majesty the Emperor of Japan, and the ratifications thereof shall be exchanged at Tokio as soon as possible.

In witness whereof the respective Plenipotentiaries of the two high contracting Parties have signed and sealed the present treaty, two copies in the Chinese language and two in Japanese.

Done at Peking this twenty-fifth day of the fifth month of the fourth year of the Republic of China, corresponding to the same day of the same month of the fourth year of Taisho.

EXCHANGE OF NOTES RESPECTING THE TERMS OF LEASE OF PORT ARTHUR
AND DALNY AND THE TERMS OF SOUTH MANCHURIAN AND ANTUNG-
MUKDEN RAILWAYS

Note

Peking, the 25th day of the 5th month of the 4th year of the Republic of China

Monsieur le Ministre,

I have the honor to state that, respecting the provisions contained in Article 1 of the treaty relating to South Manchuria and Eastern Inner Mongolia, signed this day, the term of lease of Port-Arthur and Dalny shall expire in the 86th year of the Republic or 1997. The date for restoring the South Manchuria Railway to China shall fall due in the 91st year of the Republic or 2002. Article 12 in the original South Manchurian Railway Agreement providing that it may be redeemed by China after 36 years from the day on which the traffic is opened is hereby cancelled. The term of the Antung-Mukden Railway shall expire in the 96th year of the Republic or 2007.

I avail, etc.,

(Signed) LOU TSENG-TSIANG.

His Excellency,

HIOKI EKI,

Japanese Minister.

Reply

Peking, the 25th day of the 5th month of the 4th year of Taisho

Excellency,

I have the honor to acknowledge the receipt of your excellency's note of this day's date in which you stated that respecting the provisions contained in Article 1 of the treaty relating to South Manchuria and Eastern Inner Mongolia, signed this day, the term of lease of Port Arthur and Dalny shall expire in the 86th year of the Republic or 1997. The date for restoring the South Manchurian Railway to China shall fall due in the 91st year of the Republic or 2002. Article 12 in the original South Manchurian Railway Agreement providing that it may be redeemed by China after 36 years from the day on which the traffic is opened, is hereby

cancelled. The term of the Antung-Mukden Railway shall expire in the 96th year of the Republic or 2007.

In reply I beg to state that I have taken note of the same.

I avail, etc.,

(Signed) HIOKI EKI.

His Excellency,

LOU TSENG-TSIANG,

Minister of Foreign Affairs.

**EXCHANGE OF NOTES RESPECTING THE OPENING OF PORTS IN EASTERN
INNER MONGOLIA**

Note

Peking, the 25th day of the 5th month of the 4th year of the Republic of China

Monsieur le Ministre,

I have the honor to state that the places which ought to be opened as commercial ports by China herself, as provided in Article 6 of the treaty respecting South Manchuria and Eastern Inner Mongolia signed this day, will be selected, and the regulations therefor will be drawn up, by the Chinese Government itself, a decision concerning which will be made after consulting the Minister of Japan.

I avail, etc.,

(Signed) LOU TSENG-TSIANG.

His Excellency,

HIOKI EKI,

Japanese Minister.

Reply

Peking the 25th day of the 5th month of the 4th year of Taisho

Excellency,

I have the honor to acknowledge the receipt of your excellency's note of this day's date in which you stated "that the places which ought to be opened as commercial ports by China herself, as provided in Article 6 of the treaty respecting South Manchuria and Eastern Inner Mongolia signed this day, will be selected, and the regulations therefor, will be

drawn up, by the Chinese Government itself, a decision concerning which will be made after consulting the Minister of Japan."

In reply, I beg to state that I have taken note of the same.

I avail, etc.,

(Signed) HIOKI EKI.

His Excellency,

LOU TSENG-TSIANG,

Minister of Foreign Affairs.

SOUTH MANCHURIA

Note

Peking, the 25th day of the 5th month of the 4th year of the Republic of China

Monsieur le Ministre,

I have the honor to state that Japanese subjects shall, as soon as possible, investigate and select mines in the mining areas in South Manchuria specified hereinunder, except those being prospected for or worked, and the Chinese Government will then permit them to prospect or work the same; but before the mining regulations are definitely settled, the practice at present in force shall be followed.

Fengtien:—

Locality	District	Mineral
Niu Hsin T'ai	Pen-hsi	Coal
Tien Shih Fu Kou	"	"
Sha Sung Kang	Hai-lung	"
T'ieh Ch'ang	Tung-hua	"
Nuan Ti T'ang	Chin	"
An Shan Chan region	From Liaoyang to Pen-hsi	Iron
Kirin (Southern portion)		
Sha Sung Kang	Ho-lung	Coal and Iron
Kang Yao	Chi-lin (Kirin)	Coal
Chia P'i Kou	Hua-tien	Gold

I avail, etc.,

(Signed) LOU TSENG-TSIANG.

His Excellency,

HIOKI EKI,

Japanese Minister.

Reply

Peking, the 25th day of the 5th month of the 4th year of Taisho

Excellency,

I have the honor to acknowledge the receipt of your excellency's note of this day respecting the opening of mines in South Manchuria, stating: Japanese subjects shall, as soon as possible, investigate and select mines in the mining areas in South Manchuria specified hereinunder, except those being prospected for or worked, and the Chinese Government will then permit them to prospect and / or work the same; but before the mining regulations are definitely settled, the practice at present in force shall be followed.

Fengtien.

Locality	District	Mineral
1. Niu Hsin T'ai	Pen-hsi	Coal
2. Tien Shih Fu Kou	"	"
3. Sha Sung Kang	Hai-lung	"
4. T'ieh Ch'ang	Tung-hua	"
5. Nuan Ti T'ang	Chin	"
6. An Shan Chan region Kirin (southern portion)	From Liaoyang to Pen-hsi	Iron
1. Sha Sung Kang	Ho-lung	Coal and Iron
2. Kang Yao	Chi-lin (Kirin)	Coal
3. Chia P'i Kou	Hua-tien	Gold

I avail, etc.,

(Signed) HIOKI EKI.

His Excellency,

LOU TSENG-TSIANG,

Minister of Foreign Affairs of the Republic of China.

EXCHANGE OF NOTES RESPECTING RAILWAYS AND TAXES IN SOUTH MAN-
CHURIA AND EASTERN INNER MONGOLIA

Note

Peking, the 25th day of the 5th month of the 4th year of the Republic of China

Monsieur le Ministre,

In the name of my Government, I have the honor to make the following declaration to your Government:

China will hereafter provide funds for building necessary railways in South Manchuria and Eastern Inner Mongolia; if foreign capital is re-

quired China may negotiate for a loan with Japanese capitalists first; and further, the Chinese Government, when making a loan in future on the security of the taxes in the above-mentioned places (excluding the salt and customs revenue which have already been pledged by the Chinese Central Government) may negotiate for it with Japanese capitalists first.

I avail, etc.,
(Signed) LOU TSENG-TSIANG.

His Excellency,
HIOKI EKI,
Japanese Minister.

Reply

Peking, the 25th day of the 5th month of the 4th year of Taisho

Excellency,

I have the honor to acknowledge the receipt of your excellency's note of this day's date respecting railways and taxes in South Manchuria and Eastern Inner Mongolia in which you stated:

"China will hereafter provide funds for building necessary railways in South Manchuria and Eastern Inner Mongolia; if foreign capital is required China may negotiate for a loan with Japanese capitalists first; and further, the Chinese Government, when making a loan in future on the security of taxes in the above-mentioned places (excluding the salt and customs revenue which has already been pledged by the Chinese Central Government) may negotiate for it with Japanese capitalists first.

In reply I beg to state that I have taken note of the same.

I avail, etc.,
(Signed) HIOKI EKI.

His Excellency,
LOU TSENG-TSIANG,
Minister of Foreign Affairs.

EXCHANGE OF NOTES RESPECTING THE EMPLOYMENT OF ADVISERS IN SOUTH MANCHURIA

Note

Peking, the 25th day of the 5th month of the 4th year of the Republic of China

Monsieur le Ministre,

In the name of the Chinese Government, I have the honor to make the following declaration to your Government:

"Hereafter, if foreign advisers or instructors on political, financial, military or police matters are to be employed in South Manchuria, Japanese may be employed first."

I avail, etc.,
(Signed) LOU TSENG-TSIANG.
His Excellency,
HIOKI EKI,
Japanese Minister.

Reply

Peking, the 25th day of the 5th month of the 4th year of Taisho

Excellency,

I have the honor to acknowledge the receipt of your excellency's note of this day's date in which you made the following declaration in the name of your Government:

"Hereafter if foreign advisers or instructors in political, financial, military or police matters are to be employed in South Manchuria, Japanese may be employed first."

In reply, I beg to state that I have taken note of the same.

I avail, etc.,
(Signed) HIOKI EKI.
His Excellency,
LOU TSENG-TSIANG,
Minister of Foreign Affairs.

EXCHANGE OF NOTES RESPECTING THE EXPLANATION OF "LEASE BY
NEGOTIATION" IN SOUTH MANCHURIA

Note

Peking, the 25th day of the 5th month of the 4th year of Taisho

Excellency,

I have the honor to state that the term "lease by negotiation" contained in Article 2 of the treaty respecting South Manchuria and Eastern Inner Mongolia signed this day shall be understood to imply a long-term lease of not more than thirty years and also the possibility of its unconditional renewal.

I avail, etc.,
(Signed) HIOKI EKI.
His Excellency,
LOU TSENG-TSIANG,
Minister of Foreign Affairs.

Reply

Peking, the 25th day of the 5th month of the 4th year of the Republic of China

Monsieur le Ministre,

I have the honor to acknowledge the receipt of your excellency's note of this day's date in which you state:

"The term 'lease by negotiation' contained in Article 2 of the treaty respecting South Manchuria and Eastern Inner Mongolia signed this day shall be understood to imply a long-term lease of not more than thirty years and also the possibility of its unconditional renewal."

In reply I beg to state that I have taken note of the same.

I avail, etc.,

(Signed) LOU TSENG-TSIANG.

His Excellency,

HIOKI EKI,

Japanese Minister.

EXCHANGE OF NOTES RESPECTING THE ARRANGEMENT FOR POLICE LAWS
AND ORDINANCES AND TAXATION IN SOUTH MANCHURIA AND EASTERN
INNER MONGOLIA

Note

Peking, the 25th day of the 5th month of the 4th year of the Republic of China

Monsieur le Ministre,

I have the honor to state that the Chinese authorities will notify the Japanese consul of the police laws and ordinances and the taxation to which Japanese subjects shall submit according to Article 5 of the treaty respecting South Manchuria and Eastern Inner Mongolia signed this day so as to come to an understanding with him before their enforcement.

I avail, etc.,

(Signed) LOU TSENG-TSIANG.

His Excellency,

HIOKI EKI,

Japanese Minister.

Reply

Peking, the 25th day of the 5th month of the 4th year of Taisho

Excellency,

I have the honor to acknowledge the receipt of your excellency's note of this day's date in which you state:

"The Chinese authorities will notify the Japanese consul of the police laws and ordinances and the taxation to which Japanese subjects shall submit according to Article 5 of the treaty respecting South Manchuria and Eastern Inner Mongolia signed this day so as to come to an understanding with him before their enforcement."

In reply, I beg to state that I have taken note of the same.

I avail, etc.,

(Signed) HIOKI EKI.

His Excellency,

LOU TSENG-TSIANG,

Minister of Foreign Affairs.

THE POSTPONEMENT OF ARTICLES 2, 3, 4 AND 5 OF THE TREATY RESPECTING
SOUTH MANCHURIA AND EASTERN INNER MONGOLIA

Note

Peking, the 25th day of the 5th month of the 4th year of the Republic of China

Monsieur le Ministre,

I have the honor to state that, inasmuch as preparations have to be made regarding Articles 2, 3, 4 and 5 of the treaty respecting South Manchuria and Eastern Inner Mongolia signed this day, the Chinese Government proposes that the operation of the said articles be postponed for a period of three months beginning from the date of the signing of the said treaty.

I hope your Government will agree to this proposal.

I avail, etc.,

(Signed) LOU TSENG-TSIANG.

His Excellency,

HIOKI EKI,

Japanese Minister.

Reply

Peking, the 25th day of the 5th month of the 4th year of Taisho

Excellency,

I have the honor to acknowledge the receipt of your excellency's note of this day's date in which you stated that, "inasmuch as preparations have to be made regarding Articles 2, 3, 4 and 5 of the treaty respecting South Manchuria and Eastern Inner Mongolia signed this day, the Chinese Government proposes that the operation of the said articles be postponed for a period of three months beginning from the date of the signing of the said treaty."

In reply, I beg to state that I have taken note of the same.

I avail, etc.,

(Signed) HIOKI EKI.

His Excellency,

LOU TSENG-TSIANG,

Minister of Foreign Affairs.

EXCHANGE OF NOTES RESPECTING THE MATTER OF HANYEHPING

Note

Peking, the 25th day of the 5th month of the 4th year of the Republic of China

Monsieur le Ministre,

I have the honor to state that if in future the Hanyehping Company and the Japanese capitalists agree upon co-operation, the Chinese Government, in view of the intimate relations subsisting between the Japanese capitalists and the said company, will forthwith give its permission. The Chinese Government further agrees not to confiscate the said company, nor, without the consent of the Japanese capitalists to convert it into a state enterprise, nor cause it to borrow and use foreign capital other than Japanese.

I avail, etc.,

(Signed) LOU TSENG-TSIANG.

His Excellency,

HIOKI EKI,

Japanese Minister.

Reply

Peking, the 25th day of the 5th month of the 4th year of Taisho

Excellency,

I have the honor to acknowledge the receipt of your excellency's note of this day's date in which you state:

"If in future the Hanyehping Company and the Japanese capitalists agree upon co-operation, the Chinese Government, in view of the intimate relations subsisting between the Japanese capitalists and the said company, will forthwith give its permission. The Chinese Government further agrees not to confiscate the said company, nor, without the consent of the Japanese capitalists to convert it into a state enterprise, nor cause it to borrow and use foreign capital other than Japanese."

In reply, I beg to state that I have taken note of the same.

I avail, etc.,

(Signed) HIOKI EKI.

His Excellency,

LOU TSENG-TSIANG,

Minister of Foreign Affairs.

EXCHANGE OF NOTES RESPECTING THE FUKIEN QUESTION

Note

Peking, the 25th day of the 5th month of the 4th year of the Republic of China

Excellency,

A report has reached me to the effect that the Chinese Government has the intention of permitting foreign nations to establish, on the coast of Fukien Province, dock-yards, coaling stations for military use, naval bases, or to set up other military establishments; and also of borrowing foreign capital for the purpose of setting up the above-mentioned establishments.

I have the honor to request that your excellency will be good enough to give me reply stating whether or not the Chinese Government really entertains such an intention.

I avail, etc.,

(Signed) HIOKI EKI.

His Excellency,

LOU TSENG-TSIANG,

Minister of Foreign Affairs.

Reply

Peking, the 25th day of the 5th month of the 4th year of the Republic of China

Monsieur le Ministre,

I have the honor to acknowledge the receipt of your excellency's note of this day's date which I have noted.

In reply I beg to inform you that the Chinese Government hereby declares that it has given no permission to foreign nations to construct, on the coast of Fukien Province, dock-yards, coaling stations for military use, naval bases, or to set up other military establishments; nor does it entertain an intention of borrowing foreign capital for the purpose of setting up the above-mentioned establishments.

I avail, etc.,

His Excellency,

(Signed) LOU TSENG-TSIANG.

HIOKI EKI,

Japanese Minister.

EXCHANGE OF NOTES RESPECTING THE ACCESSION OF JAPAN TO THE
DECLARATION OF SEPTEMBER 5, 1914, BETWEEN THE UNITED KING-
DOM, FRANCE, AND RUSSIA, ENGAGING NOT TO CONCLUDE PEACE
SEPARATELY DURING THE PRESENT EUROPEAN WAR ¹

London, October 19, 1915

No. 1

*Sir E. Grey and the French and Russian Ambassadors to the Japanese
Ambassador*

(Translation)

Your Excellency,

London, October 19, 1915.

We, the undersigned, duly authorized thereto by our respective Governments, have the honor to invite the Imperial Japanese Government to signify, through your excellency, their adherence to the Declara-

¹ Great Britain, Treaty Series, 1915, No. 1.

tion between the French, Russian, and British Governments, signed at London on the 5th September, 1914, the text of which reads as follows:—

The undersigned, duly authorized thereto by their respective Governments, hereby declare as follows:

The French, Russian, and British Governments mutually engage not to conclude peace separately during the present war.

The three Governments agree that when terms of peace come to be discussed no one of the Allies will demand conditions of peace without the previous agreement of each of the other Allies.

In faith whereof the undersigned have signed this Declaration and have affixed thereto their seals.

Done at London, in triplicate, this 5th day of September, 1914.

(L. S.) PAUL CAMBON,
*Ambassador Extraordinary
and Plenipotentiary of the
French Republic.*

(L. S.) BENCKENDORFF,
*Ambassador Extraordinary
and Plenipotentiary of
His Majesty the Emperor
of Russia.*

(L. S.) E. GREY,
*His Britannic Majesty's
Secretary of State for For-
eign Affairs.*

We have, &c.

PAUL CAMBON.
BENCKENDORFF.
E. GREY.

No. 2

The Japanese Ambassador to Sir E. Grey and the French and Russian Ambassadors

*Japanese Embassy, London,
October 19, 1915.*

Your Excellencies,

I have the honor to acknowledge the receipt of your note of this day's date, in which, in the name and with the authority of your respective Governments, you invite the Imperial Japanese Government to signify their adherence to the Declaration between the French, Russian, and British Governments, signed at London on the 5th September, 1914, the text of which reads as follows:

The undersigned, duly authorized thereto by their respective Governments, hereby declare as follows:

The French, Russian, and British Governments mutually engage not to conclude peace separately during the present war.

The three Governments agree that when terms of peace come to be discussed no one of the Allies will demand conditions of peace without the previous agreement of each of the other Allies.

In faith whereof the undersigned have signed this Declaration and have affixed thereto their seals.

Done at London, in triplicate, this 5th day of September, 1914.

(L. S.) PAUL CAMBON,
*Ambassador Extraordinary
and Plenipotentiary of the
French Republic.*

(L. S.) BENCKENDORFF,
*Ambassador Extraordinary
and Plenipotentiary of
His Majesty the Emperor
of Russia.*

(L. S.) E. GREY,
*His Britannic Majesty's
Secretary of State for For-
eign Affairs*

In reply, I have the honor to acquaint your excellencies that the Imperial Japanese Government have authorized me to inform you of their full and complete adherence to the terms of this Declaration.

I have, &c.

K. INOUÉ.

CONVENTION BETWEEN THE UNITED KINGDOM AND FRANCE RELATING
TO PRIZES CAPTURED DURING THE PRESENT EUROPEAN WAR ¹

*Signed at London, November 9, 1914; ratifications exchanged December 21,
1914*

His Majesty the King of the United Kingdom of Great Britain and Ireland and of the British Dominions beyond the Seas, Emperor of India, and the President of the French Republic, being desirous to determine the jurisdiction to which the adjudication of joint captures which may be made during the course of the present war by the naval forces of the allied countries shall belong, or of captures which may be made of

¹ Great Britain, Treaty Series, 1915, No. 2.

merchant vessels belonging to nationals of one of the countries by the cruisers of the other; and being desirous to regulate at the same time the mode of distribution of the proceeds of joint captures, have named as their plenipotentiaries for that purpose, that is to say:

His Majesty the King of the United Kingdom of Great Britain and Ireland and of the British Dominions beyond the Seas, Emperor of India: The Right Honorable Sir Edward Grey, a Baronet of the United Kingdom, a Member of Parliament, His Majesty's Principal Secretary of State for Foreign Affairs; and

The President of the French Republic: His Excellency M. Paul Cambon, Ambassador of the French Republic at London;

Who, having reciprocally communicated their full powers, found in good and due form, have agreed upon the following articles:

ARTICLE 1

The adjudication of neutral or enemy prizes shall belong to the jurisdiction of the country of the capturing vessel, without distinguishing whether that vessel was placed under the orders of the naval authorities of one or other of the allied countries.

ARTICLE 2

In case of the capture of a merchant vessel of one of the allied countries, the adjudication of such capture shall always belong to the jurisdiction of the country of the captured vessel. In such case the cargo shall be dealt with, as to the jurisdiction, in the same manner as the vessel.

When a merchant vessel of one of the allied countries, whose original destination was an enemy port, and which is carrying an enemy or neutral cargo liable to capture, has entered a port of one of the allied countries, the prize jurisdiction of that country is competent to pronounce the condemnation of the cargo. In such case the value of the goods, after deducting the necessary expenses, shall be placed to the credit of the Government of the allied country whose flag the merchant vessel flies.

ARTICLE 3

When a joint capture shall be made by the naval forces of the allied countries, the adjudication thereof shall belong to the jurisdiction of the country whose flag shall have been borne by the officer having the superior command in the action.

ARTICLE 4

When a capture shall be made by a cruiser of one of the allied nations in the presence and in the sight of a cruiser of the other, such cruiser having thus contributed to the intimidation of the enemy and encouragement of the captor, the adjudication thereof shall belong to the jurisdiction of the actual captor.

ARTICLE 5

In case of condemnation under the circumstances described in the preceding articles:

1. If the capture shall have been made by vessels of the allied nations whilst acting in conjunction, the net proceeds of the prize, after deducting the necessary expenses, shall be divided into as many shares as there were men on board the capturing vessels, without reference to rank, and the shares of each ally as so ascertained shall be paid and delivered to such person as may be duly authorized on behalf of the allied Government to receive the same; and the allocation of the amount belonging to each vessel shall be made by each Government according to the laws and regulations of the country.

2. If the capture shall have been made by cruisers of one of the allied nations in the presence and in sight of a cruiser of the other, the division, the payment, and the allocation of the net proceeds of the prize, after deducting the necessary expenses, shall likewise be made in the manner above mentioned.

3. If, in accordance with Article 2, paragraph 1, a capture, made by a cruiser of one of the allied countries, shall have been adjudicated by the courts of the other, the net proceeds of the prize, after deducting the necessary expenses, shall be made over in the same manner to the Government of the captor, to be distributed according to its laws and regulations.

ARTICLE 6

The commanders of the vessels of war of the allied countries shall, with regard to the sending in and delivering up of prizes, conform to the instructions which are annexed to the present convention, and which the two Governments reserve to themselves the right to modify by common consent, if it should become necessary.

ARTICLE 7

When, with a view to the execution of the present convention, it shall become necessary to proceed to the valuation of a captured vessel of war, the calculation shall be according to the real value of the same; and the allied Government shall be entitled to delegate one or more competent officers to assist in the valuation. In case of disagreement, it shall be decided by lot which officer shall have the casting voice.

ARTICLE 8

The present convention shall be ratified, and the ratifications shall be exchanged in London as soon as possible.

ARTICLE 9

The non-signatory allied Powers shall be invited to accede to the present convention.

A Power which desires to accede shall notify its intention in writing to the Government of His Britannic Majesty, who shall immediately forward to the Government of the French Republic a duly certified copy of the notification.

In witness whereof the respective plenipotentiaries have signed the present convention, and have affixed thereto the seals of their arms.

Done at London, in duplicate, the 9th day of November, 1914.

(L. S.) E. GREY.

(L. S.) PAUL CAMBON.

ANNEX

Instructions to the Commanders of Ships of War of His Majesty the King of the United Kingdom of Great Britain and Ireland and of the French Republic

You will find enclosed a copy of a convention which was signed on the 9th November, 1914, between His Majesty the King of the United Kingdom of Great Britain and Ireland and the President of the French Republic, regulating the jurisdiction to which shall belong the adjudication of the captures made by the allied naval forces, or of the captures of merchant vessels belonging to the nationals of either of the two coun-

tries which shall be made by the cruisers of the other, as likewise the mode of distribution of the proceeds of such joint captures.

In order to ensure the execution of this convention, you will conform yourself to the following instructions:

ARTICLE 1

Whenever, in consequence of a joint action, you are required to draw up the report or *procès-verbal* of a capture, you will take care to specify, with exactness, the names of the ships of war present during the action, as well as the names of their commanding officers, and, as far as possible, the number of men embarked on board those ships at the commencement of the action, without distinction of rank.

You will deliver a copy of that report or *procès-verbal* to the officer of the allied Power who shall have had the superior command during the action, and you will conform yourself to the instructions of that officer, as far as relates to the measures to be taken for the conduct and the adjudication of the joint captures so made under his command.

If the action has been commanded by an officer of your nation, you will conform yourself to the regulations of your own country, and you will confine yourself to handing over to the highest officer in rank of the allied Power who was present during the action, a certified copy of the report or of the *procès-verbal* which you shall have drawn up.

ARTICLE 2

When you shall have effected a capture in presence and in sight of an allied ship of war, you will mention exactly, in the report which you will draw up when the capture is a ship of war, and in the report or *procès-verbal* of the capture when the prize is a merchant vessel, the number of men on board your ship at the commencement of the action, without distinction of rank, as well as the name of the allied ship of war which was in sight, and, if possible, the number of men embarked on board that ship, likewise without distinction of rank. You will deliver a certified copy of your report, or *procès-verbal*, to the commander of that ship.

ARTICLE 3

Whenever, in the case of a violation of a blockade, of the transport of contraband articles, of land or sea troops of the enemy, or of official despatches from or for the enemy, you will find yourself under the

necessity of stopping and seizing a merchant vessel of the allied nation, you will take care—

1. To draw up a report (or *procès-verbal*), stating the place, the date, and the motive of the arrest, the name of the vessel, that of the captain, the number of the crew; and containing besides an exact description of the state of the vessel and her cargo;

2. To collect and place in a sealed packet, after having made an inventory of them, all the ship's papers, such as registers, passports, charter-parties, bills of lading, invoices, and other documents calculated to prove the nature and the ownership of the vessel and of her cargo;

3. To place seals upon the hatches;

4. To place on board an officer, with such number of men as you may deem advisable, to take charge of the vessel, and to ensure its safe conduct;

5. To send the vessel to the nearest port belonging to the Power whose flag it carried;

6. To deliver up the vessel to the authorities of the port to which you shall have taken her, together with a duplicate of the report (or *procès-verbal*), and of the inventory above mentioned, and with the sealed packet containing the ship's papers.

ARTICLE 4

The officer who conducts the captured vessel will procure a receipt proving his having delivered her up, as well as his having delivered the sealed packet and the duplicate of the report (or *procès-verbal*) and of the inventory above mentioned.

ARTICLE 5

In case of distress, if the captured vessel is not in a fit state to continue its voyage, or in case the distance should be too great, the officer charged to conduct to a port of the allied Power a prize made on the merchant service of that Power, may enter a port of his own country, and he will deliver his prize to the local authority without prejudice to the ulterior measures to be taken for the adjudication of the prize. He will take care, in that case, that the report or *procès-verbal*, and the inventory which he shall have drawn up, as well as the sealed packet containing the ship's papers, be sent exactly to the proper court of adjudication.

E. GREY.

PAUL CAMBON.

ACCESSION OF RUSSIA TO THE CONVENTION OF NOVEMBER 9, 1914, BETWEEN THE UNITED KINGDOM AND FRANCE RELATING TO PRIZES CAPTURED DURING THE PRESENT EUROPEAN WAR ¹

London, March 5, 1915

(1)

The Russian Ambassador to Sir E. Grey

(Translation)

Imperial Russian Embassy, London,

March 5, 1915.

Sir,

In acceding, in the name of my Government, to the convention concluded between Great Britain and France on the 9th November, 1914, I desire to call your excellency's attention to the fact that, according to Russian legislation, the condemnation of enemy cargoes on board merchant vessels of the allied states which enter Russian ports does not appertain to prize court jurisdiction, but is pronounced by the Imperial administrative authorities. It is consequently in this sense that Article 2, paragraph 2, of the aforesaid convention should be interpreted so far as regards Russia.

In requesting your excellency to take note of this communication in the name of His Britannic Majesty's Government, I have, &c.

BENCKENDORFF.

Declaration

The undersigned, Ambassador Extraordinary and Plenipotentiary of His Majesty the Emperor of Russia, duly authorized to that effect, hereby declares, in the name of his Government, their accession to the convention concluded between Great Britain and France on the 9th November, 1914.

In witness whereof the undersigned has signed the present Declaration.

BENCKENDORFF.

London, March 5, 1915.

¹ Great Britain, Treaty Series, 1915, No. 4.

(2)

Sir E. Grey to the Russian Ambassador

Your Excellency,

Foreign Office, March 12, 1915.

I have the honor to acknowledge the receipt of your excellency's note of the 5th instant, conveying the formal accession of Russia to the convention relating to prizes captured during the present war, which was concluded between Great Britain and France on the 9th November, 1914.

Due note has been taken of this communication, a certified copy of which will, in accordance with Article 9 of the convention, be forwarded by His Majesty's Government to the Government of the French Republic.

I have, &c..

His Excellency the

E. GREY.

Count Benckendorff, &c.

**RULES AND REGULATIONS FOR THE OPERATION AND NAVIGATION OF THE
PANAMA CANAL AND APPROACHES THERETO, INCLUDING ALL WATERS
UNDER ITS JURISDICTION**

Executive Order, No. 1990, July 9, 1914

GENERAL REGULATIONS

1. The following Rules and Regulations pertaining to the Operation and Navigation of the Panama Canal are published for the benefit of all vessels coming within its jurisdiction, and masters of vessels, or their agents, one or both, desiring to use the Canal and terminal ports, or any of the waters, must observe them.

2. Any person violating any of the provisions of the rules and regulations established hereunder shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of five hundred dollars (\$500.00), or by imprisonment not to exceed six months, or by both such fine and imprisonment, at the discretion of the court.

3. After entering, no vessel shall leave one of the terminal ports for the purpose of passing further into the Canal until authority in proper form has been given by the Captain of the Port.

4. The Canal authorities may deny any vessel the privilege of passing through the Canal the cargo of which is of such a nature that it might, in any way, endanger the locks, wharves, equipment, or any part of the Canal, by being explosive or highly inflammable. The further right is reserved to them to impose such safety regulations as they may see fit upon any such vessel while in Canal waters.

5. Vessels desiring to pass through the Canal, whose cargoes consist of high explosives, should, when practicable, so report and obtain permission from the Canal authorities to use the Canal before leaving their ports of departure.

6. In any case where the condition of the cargo, hull, or machinery is such that it is liable to endanger or obstruct the Canal, permission to pass through may be refused until steps have been taken to remedy the defect.

7. All vessels having a specially dangerous cargo, such as explosives or oils of any kind, shall fly a red flag by day at the masthead, and hoist a red lantern at night.

8. The following information must be ready for immediate delivery upon the arrival of the ship in port; name of vessel, nationality, name of master, date and time of arrival, port of departure, date of departure, port of destination, length, draft, beam, registered tonnage, crew and passenger list, and character of cargo; the bill of health should also be ready for presentation.

9. The Canal authorities may dispatch vessels through the Canal in any order and at any time they may see fit; priority of arrival at a terminal does not give any vessel the right to pass through the Canal ahead of another that may arrive later, although this will be a consideration in determining the order of passage.

10. The Canal authorities may hold a vessel for the purpose of investigating any report made against her by the proper persons, for the violation of the rules of the Canal or the laws of the Canal Zone, or of the United States, or for the investigation or adjustment of any claims or disputes that may arise on either side; but no vessel shall have any claim for damages against the Canal for any delay in consequence thereof.

Pilots and Movements of Vessels

11. Vessels will not be allowed to enter or depart from terminal ports between sundown and sunrise without having obtained permission from

the proper authorities. This will not be interpreted to mean that a vessel in danger or distress will be prohibited from entering a terminal port at any time in case of necessity or emergency; but such vessel should, when practicable, give due notice in advance, by radio or otherwise, and obtain a pilot if possible; nor shall this be interpreted to prevent a vessel from anchoring just inside of the breakwater in the outer harbor at the Atlantic terminal, or to seaward of the entrance to the dredged channel on the Pacific side, between sundown and sunrise.

12. Except when exempted from the operation of this rule by the Governor of the Panama Canal, no vessel will be allowed to pass through the Canal, enter or leave a terminal port, maneuver, shift berth, go alongside of or leave any wharf or dock in canal waters without having a regularly authorized government pilot on board.

13. Pilotage for vessels in transit through the Canal will be free, nor will they be charged pilotage for entering or leaving a terminal port when it is for the sole purpose of passing through the Canal; but should any such vessel, while in Canal waters, discharge or receive freight or passengers, or take on board supplies, provisions, stores, or fuel, or remain for the purpose of effecting repairs, or make either terminal a port of call, she may be liable for entrance or departure pilotage, as the Canal authorities may direct.

14. Pilotage in and out of the Atlantic and Pacific terminals of the Canal is compulsory, and all vessels, unless otherwise exempted, will be compelled to take a regular government pilot upon entering or leaving. The fact that the master or any officer of any vessel holds a pilot's license for any of the waters of the Canal Zone will not authorize the vessel to enter without taking a government pilot.

15. No person, steamer, company or corporation will be allowed to maintain or employ pilots in Canal waters for the exclusive use of their own or any other vessels; all pilots, without exception, must be duly authorized and licensed by the Canal authorities and be in the employ of the Canal. This shall not be interpreted to mean that the Canal authorities shall be prohibited from issuing restricted pilot licenses for small craft in Canal waters, or any other that they may see fit.

16. Pilots will meet incoming vessels inside of the breakwaters at the Atlantic terminal, and outside of the seaward end of the dredged channel at the Pacific terminal; should there be any delay, vessels may anchor just inside of the Atlantic breakwaters or to seaward of the Canal entrance on the Pacific side, make the usual signal for a pilot and await his

arrival. Should a vessel desire a pilot to meet her outside of the Atlantic breakwaters, she should remain there and make signal to this effect.

17. Whenever practicable, vessels should send notification of the probable time of their arrival, by radio or otherwise, so that pilots may meet them promptly.

18. All vessels entering port must take the berths or docks assigned them by the Captain of the Port, and they will not be allowed to shift berths or moorings without the proper permission.

19. Except in the prescribed limits in Gatun Lake and adjacent waters, no vessel will be allowed to anchor in any part of the Canal, nor on any of the marked ranges; should an emergency arise wherein it may be necessary to let go an anchor, whenever practicable the pilot should be consulted before doing so.

20. At all times when a vessel is under way in the terminal ports or in transit through the Canal, except while passing through the locks, with a duly accredited pilot on board, the captain or master of a vessel will be held solely responsible for the safety, handling, and proper navigation of the vessel; the pilot is to be considered as being on board solely in an advisory capacity, but masters of vessels must abide by the rules and regulations of the Canal, as interpreted to them by the pilots.

21. The pilot shall be freely consulted at all times to insure safety in navigation, and that no accident or damage result from ignorance on the part of the master or officers of the vessel in transit; and should any such master, officer, or person connected with the ship, give or cause to be given, any order, or direct any change of speed or direction of the ship on his own initiative, without the knowledge of the pilot, which may result in damage to his own or any other vessel, dredger, or property of any kind, or endanger or block the Canal, or any of its equipment, he will be held strictly responsible, and the vessel itself may be held by legal process until settlement in full shall have been made to cover any loss or damage that may have resulted in consequence thereof.

22. Inasmuch as every vessel has its own individual peculiarities in handling, answering her helm, variation in headway due to speed, it shall be the duty of the master of the vessel, or his qualified representative, to be present at all times on the bridge of the ship to keep the pilot informed in regard to these matters, so that the pilot may be best qualified to give advice in regard to navigating the ship safely.

23. The pilot should not only be freely consulted at all times on matters relating to the navigation of the ship, but to the rules and regulations

pertaining to the same, to signals, locks, weather, or other matters of importance relating to the movements of the vessel. While on board he is the properly qualified representative of the Canal authorities in these matters, and should any accident or damage result from failure to consult him, or from not following his advice, the vessel shall be held responsible for such accident or damage.

24. The pilot must inform the master or captain that his (the pilot's) experience and knowledge of the Canal is at his (the master's or captain's) disposal and that, inasmuch as he (the pilot) is not in a position to know the defects, difficulties, or eccentricities of the vessel in maneuvering, while getting under way or in transit, the responsibility for navigating the vessel is entirely in the hands of the master or captain, except when passing through the locks.

25. When in the opinion of the pilot, the master or captain, or their representatives, shall fail to follow his advice and thereby endanger his own or any other vessel, or any part of the Canal or its equipment, the pilot shall then direct the master or captain of such vessel to stop, anchor, or moor, until the facts have been laid before the Canal authorities.

26. Pilots shall conform to such other rules as shall be prescribed for their guidance by the Governor of the Panama Canal.

Preparation for and Transit through the Canal

27. Vessels shall, at all times, when under way in Canal waters, when passing through the locks, or moored temporarily in transit through the Canal, keep a full watch on deck and in the engine room, in the same manner in which they are kept at sea.

28. While a vessel is under way in Canal waters, no one shall be allowed on the bridge or in the pilot house except the pilot and other representatives of the Canal, the master and such officers and crew of the ship as may be necessary for her management, direction and safety. Under no condition will any passenger or any other unauthorized person be allowed on the bridge or in the pilot house.

29. Before beginning the passage of the Canal, vessels will be required to have hawsers, lines and fenders ready for passing through the locks, for warping, towing or mooring as the case may be; and will have both anchors ready for letting go. During the passage, at all times while the vessel is under way or moored against the lock walls, her deck winches, capstans or other power for handling lines, as well as her mooring bits,

deck chocks, cleats, hawse-pipes, etc., shall be ready for handling ship to the exclusion of all other work.

30. At least one boat for handling lines shall be kept ready for lowering.

31. Should any part of a vessel's engines, machinery, condensers, boilers, shafts, propellers, steering gear, valves, hull, equipment, or anything else, be in such condition that it might, through failure, interfere to prevent or retard a vessel's passage through the Canal, such fact must be presented to the Captain of the Port before a vessel will be allowed to enter.

32. All sailing craft, vessels whose machinery may be in bad condition or disabled, and vessels without motive power, must be towed through all parts of the Canal lying between the entrances, for which service an additional charge will be imposed.

33. When passing through the locks, vessels will habitually be towed by Canal equipment. In exceptional instances, as when such equipment is not available, or in case of very small vessels, special permission to use the vessel's own motive power may be given by the Governor. Without such special permission, the vessel's motive power will not be used while passing the locks.

34. Upon approaching the lock, vessels will moor against the middle approach wall with the bow at least fifty feet from the nearest fender chain. They will then be taken in charge by the lock force and made ready for passage through the locks.

35. When these regulations are complied with in all respects, responsibility for handling vessels through the locks will rest with the Canal operating force, but the crew and officers will be required to render such assistance as may be necessary to supplement the lock force. To assist in insuring safety of passage, the lock force will take complete supervision of the engine room, even to the extent of sealing the engines if the Governor shall so direct.

36. The Governor of the Panama Canal is hereby authorized to issue from time to time orders regulating the procedure in passing vessels through the locks, and the details of the supervision which will be exercised by the lock force. Such orders when issued shall have the force of these regulations.

37. In cases where special permission to use the vessel's own motive power has been given by the Governor, he shall indicate what precautions must be taken to insure safety in passing through the locks. His

directions as to such precautions must be observed strictly and in every detail.

38. Vessels will be liable for any damage to Canal structures or equipment while passing through the locks, caused through disregard or non-compliance of these rules and regulations or any orders which may be issued by the Governor to regulate such passage. The Panama Canal will not be held liable for any damage to the vessel occasioned by such disregard or non-compliance.

39. Masters of vessels will not allow anyone to take passage on their ships while passing through the Canal, except the ship's officers, crew and duly accredited passengers, and such officials and other persons as may be designated by the Canal authorities.

Radio Communication and Report

40. As soon as radio communication can be established with the Canal, vessels should report their names, nationality, length, draft, tonnage, whether or not they desire to pass through the Canal, require coal, provisions, supplies, repairs, to go alongside of a wharf, the use of tugs, probable time of arrival, length of stay in port, or any other matters of importance or interest. If this information has been previously communicated, through agents or otherwise, to the Captain of the Port, it will not be necessary to report by radio; but the probable time of arrival should always be sent.

41. Control of radio communication is entirely in the hands of the radio shore stations. No vessel will be allowed to interfere in the slightest degree with the Canal radio stations; upon an order being received by a vessel at any time while within the waters under the control of the Canal to discontinue using radio, even if in the midst of transmission of a message, she shall immediately comply.

42. Upon a ship's arriving within the 15-mile limit, and until leaving the 15-mile limit of the Canal Zone, she shall transmit only with low power, not exceeding $\frac{1}{2}$ K. W.

43. Messages to stations will be sent only to Colon station (NAX) when in Gatun locks and to northward thereof, and only to Balboa station (NPJ) when in Miraflores locks and to southward thereof; between these two points ships may work to either station, preferably to the nearer one; the high power station (Darien) at Radio, will not handle commercial work and will not be called for Canal business except in case of emergency.

44. All messages between ships in the Canal Zone and ships at sea must be forwarded through the nearer shore station.

45. Messages from ships in the Caribbean Sea for ships in the Pacific waters, or vice versa, shall be routed through the Canal Zone shore stations.

46. All vessels fitted with radio, after leaving the terminal harbor to pass through the Canal, shall keep an operator on watch until the further terminal harbor has been reached; this applies to the time when they are anchored in Gatun Lake, while passing through the locks, or moored to the lock walls, or to any of the wharves in the Canal proper, as well as when they are under way. Messages relating to the ship's movements and the Canal business shall take precedence over all commercial messages.

47. Pilots on vessels passing through the Canal shall have the right to use a vessel's radio freely for the transaction of the Canal business.

48. Under the direction of the pilots, vessels will from time to time report their progress through the Canal; accidents to machinery, propellers, steering gear, equipment, or anything else that may delay them or require assistance; any sickness or casualties that require medical attendance from Canal officials; or any other matters of importance that may arise.

49. No charges will be imposed against the Canal by vessels receiving or sending messages in relation to Canal business.¹

50. No vessel will be allowed to communicate with any lock or signal station while in transit through the Canal, except through the pilot; all messages of any kind must be sent through him. This does not apply to vessels moored at the terminals at Cristobal or Balboa, before entering or after having passed through the Canal, which may wish to communicate through the terminal stations.

51. Vessels in transit through the Canal can communicate with the locks and signal stations, through the pilots, both by the international code and special signals; information on this subject may be obtained from the Governor of the Panama Canal.

Accidents or Defects

52. If any defect in any part of a vessel's hull, machinery, steering gear or equipment, be discovered while in transit through the Canal, of

¹ See Executive Order amending this paragraph, p. 57 of this SUPPLEMENT.

such a serious nature that it might interfere with the further passage of the vessel, or be liable to block the Canal, the vessel shall stop and, if practicable, be anchored or moored at the first available place. A full report shall immediately be made to the Superintendent of Transportation, through the Captain of the Port, stating fully the cause and nature of the trouble, probable delay, and request for assistance if it be necessary.

53. Under any and all circumstances, whenever a vessel is liable to become unmanageable from any weakness, or damage to her machinery, steering gear, or for any other reason, she shall immediately, through the pilot, request the assistance of a tug.

Firearms

54. No firearms of any kind shall be discharged while in transit through the Canal or in Canal waters, and every precaution will be taken to prevent this.

Subsistence of Pilots

55. Pilots and other authorized persons on duty, belonging to the Canal service, shall be subsisted without charge while on board vessels in transit through the Canal.

Maintenance of Tugs and Other Floating Equipment

56. No vessel, company, nor individual will be authorized to maintain or operate permanently any tugs, launches, lighters, or floating equipment of any kind within the Canal waters without permission from the Governor; nor shall any small craft or boat of any kind be operated without the proper authority from him.

Claims

57. All claims for damages arising from injury to vessels, cargo, or passengers from the passing of vessels through the locks under the control of those operating them in accordance with the rules and regulations governing the operation of the Panama Canal, shall be adjusted by mutual agreement when practicable, between the Panama Canal and the passengers, owners, agents or underwriters of the vessel, or owners, agents or underwriters of the cargo of the vessel, as the respective interests may appear.

58. To facilitate the adjustment of such claims the Board of Local Inspectors, together with an officer or employee detailed from the Accounting Department to assist the Board, shall immediately proceed to investigate and report upon all accidents to vessels in the locks, which may result in claims for damages against the Panama Canal under the provisions of Section 5 of the Panama Canal Act.

59. The Board of Local Inspectors or any member thereof, acting for the Board, shall have authority to summon witnesses and administer oaths to such witnesses at any hearing held by such Board, and the attendance of witnesses may be compelled by process of court on application of the Board to the District Judge.

60. The findings of the Board shall be expressed in writing and reported to the Governor and a certified copy thereof immediately sent to the Auditor. If the finding of the Board is against the Panama Canal, the Auditor may proceed at once to effect a settlement with the claimants, if practicable, but such settlement shall be subject to the approval of the Governor. When the settlement is effected immediate payment of the claim shall be made, if there is an appropriation available for such purpose. In case of disagreement suit may be brought by the claimant in the District Court of the Canal Zone, against the Governor of the Panama Canal, in conformity with Section 5 of the Panama Canal Act.

61. The Governor of the Panama Canal is authorized to issue such detailed rules, not inconsistent with this order, governing the duties of the Board and the adjustment of claims.

Measurement of Vessels

62. The rules for the measurement of vessels, to determine their tonnage, will be found in the proclamation of the President dated November 21, 1913.²

Aids to Navigation

63. In general, the channels of the Canal, except Culebra Cut, are marked by double ranges, which are set a little to the starboard side of the channel, so that no matter in which direction a vessel may be going, there will be a range available ahead.

64. The sides of the channels are marked by red and black buoys, in accordance with the system in vogue in the United States, with the red buoys on the starboard hand on entering from seaward, and the black

² Printed in SUPPLEMENT to this JOURNAL for January, 1914, p. 56.

buoys on the port. The lock at Pedro Miguel is the dividing line between the Atlantic and Pacific systems; that is to say, that after passing through the locks, red and black buoys will be found on the opposite sides of the channels to those on which they were before reaching the locks.

65. All lighted ranges show flashing or intermittent white lights; the red lighted buoys show flashing or intermittent red lights; the black lighted buoys show flashing or intermittent white lights; beacons show red or white flashing or intermittent lights, depending upon the side of the channel upon which they are situated. Further information in regard to the navigation of the Canal can be obtained upon application to the Superintendent of Transportation or the Captains of the Ports.

Rules of the Road, Whistle and other Signals, and Speed Regulations relating to the Navigation of the Canal and Approaches thereto

66. In the following rules every steam vessel which is under sail and not under steam, is considered a sailing vessel; and every vessel under her own motive power, whether under sail or not, is to be considered a steam vessel.

67. The words "steam vessel" and "steamer" shall include every vessel propelled by machinery.

68. A vessel is under way, within the meaning of these rules, when she is not at anchor, moored, or aground.

69. Risk of collision can, when circumstances permit, be determined by carefully watching the bearings of an approaching vessel by compass, or otherwise; if the courses be converging and the bearing does not appreciably change, such risk should be deemed to exist.

70. A steam vessel shall be provided with an efficient whistle or siren, sounded by steam or some substitute for steam, so placed that the sound may not be intercepted by any obstruction, and a sailing vessel with an efficient fog horn; both shall be supplied with an efficient bell.

71. A sailing vessel of twenty tons gross tonnage or upward shall be provided with a similar fog horn and bell.

72. Motor boats shall be divided into classes as follows, according to the length, which shall be measured from end to end:

- Class I Less than 26 feet.
- Class II 26 feet or over, but less than 40 feet.
- Class III 40 feet or over, but less than 65 feet.

73. All motor boats shall be provided with a whistle or other mechanical sound-producing device, capable of making a blast of at least two seconds' duration, and in addition, classes II and III shall be provided with an efficient fog horn and fog bell, the latter to be at least eight inches across the mouth.

74. A short blast of the whistle shall mean a blast of about one second's duration, and a prolonged blast of the whistle shall mean a blast of from four to six seconds' duration.

75. One short blast of the whistle signifies intention of or assent to steamer first giving the signal to direct course to her own starboard, except when two steamers are approaching each other at right angles or obliquely, when it signifies intention of steamer which is to starboard of the other to hold course and speed.

76. Two short blasts of the whistle signify intention of or assent to steamer first giving the signal to direct course to her own port, except when steamers are approaching each other at right angles or obliquely, when the signal signifies desire of or assent to steamer which is to the port of the other to cross the bow of the steamer to starboard.

77. Three short blasts of the whistle shall mean: "My engines are going at full speed astern."

78. When vessels are in sight of one another a steam vessel under way whose engines are going at full speed astern shall indicate that fact by three short blasts of the whistle.

79. If, when vessels are approaching each other, either vessel fails to understand the course or intention of the other, from any cause, the vessel so in doubt shall immediately signify the same by making the danger signal, namely: several short and rapid blasts, not less than four, on the steam whistle.

80. Whenever the danger signal is given, the engines of both steamers shall be stopped and backed until the headway of the steamers has been fully checked; nor shall the engines of either steamer be again started ahead until the steamers can safely pass each other, and the proper signals for passing have been given, answered, and understood.

81. Steam vessels are forbidden to use what has become technically known among pilots as "cross signals," that is, answering one whistle with two, and answering two whistles with one. In all cases, and under all circumstances, a pilot receiving either of the whistle signals provided in these rules, which for any reason he deems injudicious to comply with,

instead of answering it with a cross signal, shall at once sound the danger signal and observe the rule applying thereto.

82. The signals for passing, by blowing the whistle, shall be given and answered by vessels, in compliance with these rules, not only when meeting head on, or nearly so, but at all times when the vessels are in sight of each other, when passing or meeting at a distance within a half mile of each other, and whether passing to starboard or port.

83. The whistle signals provided in the rules for steam vessels meeting, passing, or overtaking, are never to be used except when steamers are in sight of each other, and the course and position of each can be determined in the daytime by a sight of the vessel itself, or at night by seeing its signal lights, except in cases hereafter mentioned, where vessels are approaching a turn in the Canal. In fog, mist, or heavy rainstorms, when vessels cannot see each other, fog signals only must be given.

84. When steam vessels are approaching each other head on, or nearly so, it shall be the duty of each to pass on the port side of the other; and either vessel shall give, as a signal of her intention, one short and distinct blast of her whistle, and thereupon they shall pass upon the port side of each other. But if their courses be so far to starboard of each other as not to be considered as meeting head on, either vessel shall immediately give two short, distinct blasts of her whistle, which the other vessel shall answer promptly with two similar blasts, and they shall pass to starboard of each other; but vessels going in opposite directions, in transit through the Canal, shall make it an invariable rule to pass to port of each other, unless there be some special reason to the contrary.

85. When they sight each other in the straight reaches of the Canal, going in opposite directions, they shall, when within a mile of each other, be slowed down and each placed upon its respective range, which is marked by the two light towers to the starboard side of the middle line, and should not be allowed to approach closer than this to the center line until they have passed each other; this will obviate any risk of collision and prevent a vessel from approaching too close to the sides of the Canal.

86. Self-propelling Canal craft, at work on their stations or under way, will give way and leave the center of the channels clear to seagoing vessels in transit; nothing in this rule shall be construed to warrant a violation of the rules of the road, but shall be interpreted to mean that tugs, launches, and small self-propelling craft shall keep close to the sides of the Canal and out of mid channel when large vessels are passing, whenever practicable, without involving any danger to themselves.

87. The foregoing applies only to cases where vessels are meeting end on, or nearly so, in such manner as to involve risk of collision; in other words, to cases in which, by day, each vessel can see the masts of the other in a line, or nearly so, with her own, and at night to cases in which each vessel can see the other's side lights, and each can see the range lights of the other in line, or nearly so. It does not apply to cases in which a vessel can see another ahead crossing her own course, or by night to cases where the red light of one vessel is opposed to the red light of the other, or where the green light of one vessel is opposed to the green light of the other, or where a red light without a green light or a green light without a red light is seen ahead, or where both green and red lights are seen anywhere but ahead.

88. Vessels approaching the sharper bends in the Canal, particularly when the next reach may be obscured, and all bends in Culebra Cut, shall, when at a distance of at least half a mile from such bend, slow down and blow one prolonged blast as a notification to other vessels which may be coming from the opposite direction; if there be no reply, the vessel may proceed, but vessels shall not pass each other in the bends of the Canal; if there be a reply to the blast first sounded, both vessels shall stop and proceed cautiously, following the rules of the road, but the vessel which has the turn of the bend on her port bow shall have the right to first proceed and make the turn.

89. When steam vessels are moved from their docks, or berths, and other vessels are liable to pass from any direction toward them, they shall sound a prolonged blast, but immediately after clearing their berths so as to be fully in sight, they shall be governed by the steering and sailing rules.

90. A prolonged blast shall also be sounded when approaching all signal stations or locks, and when leaving the latter.

91. When steam vessels are running in the same direction, and the vessel astern desires to pass on the starboard hand of the vessel ahead, she shall give one short blast, and if the vessel ahead answers with one blast, they shall maneuver accordingly, but if the vessel ahead does not think it safe for the vessel astern to attempt to pass at that point, she shall immediately signify the same by giving several short and rapid blasts of the whistle, not less than four, and under no circumstances shall the vessel astern attempt to pass the vessel ahead until such time as they have reached a point where it can be safely done, when the vessel ahead shall signify her willingness by blowing the proper signals; the vessel

ahead shall in no case attempt to cross the bow or crowd upon the course of the passing vessel.

92. Every vessel coming up with another vessel from any direction more than two points abaft her beam, that is, in such a position with reference to the vessel which she is overtaking that at night she would be unable to see either of that vessel's side lights, shall be deemed to be an overtaking vessel, and no subsequent alteration of the bearing between the two vessels shall make the overtaking vessel a crossing vessel within the meaning of these rules, or relieve her of the duty of keeping clear of the overtaken vessel until she is finally passed and clear. As by day the overtaking vessel cannot always know with certainty whether she is forward of or abaft this direction from the other vessel, she should, if in doubt, assume that she is an overtaking vessel and keep out of the way.

93. After whistle signals have been made and answered, Canal craft must haul close out to the sides of the Canal and leave the center of the channels unrestricted for seagoing vessels; this applies particularly to the 500-foot channels and the Culebra Cut.

94. Unless specially authorized by the Governor, no owner, master, or operator of floating craft, except such as may belong to or be chartered by the Panama Canal, or such as may be engaged in passage of the Canal under charge of a government pilot, shall cause or permit such craft to enter, navigate or be present within that portion of the Panama Canal known as the Culebra Cut which lies between Gamboa and the Pedro Miguel lock.

95. For the better enforcement of this regulation, the officers and agents of the Canal, and the assistant engineers, superintendents, and supervisors employed under them by the authority of the Governor, shall have power and authority to arrest and take into custody, with or without process, any person or persons who may violate this rule.

96. Speed exceeding six knots per hour is prohibited in the Cut; large vessels, particularly when approaching a turn, shall go at the slowest speed that will enable them to keep their steerage way. This rule does not apply to vessels owned by the Canal.

97. The movement of vessels in the Culebra Cut will be regulated by orders to be issued by the Governor, which orders will be communicated to the masters of vessels by the pilots.

98. The Canal authorities may require any vessel to take a tug through

the Cut, on approaching the locks, or in any other part of the Canal, when in their opinion it may be necessary to insure the safety of the vessel or to prevent accident or grounding.

99. Should a vessel be unwieldy, steer badly, or be hard to handle, the captain or master should so report and request the services of a tug to assist him through the Cut, should he deem it necessary.

100. On approaching another vessel under way in the narrow reaches, or before passing a vessel that has been tied up, or lighters, scows, dredgers, piledrivers, or anything that is afloat, whether moored, anchored or under way, vessels shall blow a prolonged blast and slow down in plenty of time to pass at the slowest speed at which they can be steered.

101. The following speeds shall not be exceeded by vessels in transit through the Canal:

Colon to Gatun locks.	6 knots per hour
Gatun Lake, in the 1000-foot channels.	15 " " "
Gatun Lake, in the 800-foot channels.	12 " " "
Gatun Lake, in the 500-foot channels.	10 " " "
Culebra Cut.	6 " " "
Miraflores Lake.	6 " " "
Miraflores locks to Pacific entrance to Canal. .	6 " " "
Steamers entering or leaving a port.	6 " " "

102. The Governor may change the rules in regard to speed and the use of tugs at any time that he may see fit, but will give due notice in case any changes be made.

103. Under no condition will steamers be allowed to run side by side in any part of the Canal proper, terminal port, or adjacent waters, both going in the same direction, except for the time necessary for one steamer to pass ahead of another, after the proper signals have been made and answered; nor shall such passing take place in any of the bends of the Canal; should an occasion arise, however, where steamers may find themselves running side by side, or nearly so, in the same direction, in the open waters or elsewhere, the steamer on the right or starboard side shall have the right of way, and the steamer on the left or port side shall check her way, drop astern, and keep at a safe distance until the bend shall have been passed or there is no further danger of collision.

104. When two steamers are approaching each other at right angles or obliquely so as to involve risk of collision, other than when one steamer is

overtaking another, the steamer which has the other on her port side shall hold her course and speed; and the steamer which has the other on her starboard side shall keep out of the way of the other by directing her course to starboard so as to cross the stern of the other steamer, or, if necessary to do so, slacken her speed, or stop, or reverse. The steamer having the other on her own port bow shall blow one blast of her whistle as a signal of her intention to cross the bow of the other, holding her course and speed, which signal shall be promptly answered by the other steamer by one short blast of her whistle as a signal of her intention to direct her course to starboard so as to cross the stern of the other steamer or otherwise keep clear.

105. If, from any cause whatever, the conditions covered by this situation are such as to prevent immediate compliance with each other's signals, the misunderstanding or objection shall at once be made apparent by blowing the danger signal, and both steamers shall be stopped and backed, if necessary, until signals for passing with safety are made and understood.

106. Every vessel which is directed by these rules to keep out of the way of another vessel, shall, if the circumstances of the case permit, avoid crossing ahead of the other.

107. Every vessel which is directed by these rules to keep out of the way of another vessel shall, on approaching her, if necessary, slacken her speed, or stop, or reverse.

108. When a steam vessel and a sailing vessel are proceeding in such directions that they may involve the risk of collision, the steam vessel shall keep out of the way of the sailing vessel.

109. When two sailing vessels are approaching one another so as to involve risk of collision, one of them shall keep out of the way of the other, as follows:

(a) A vessel which is running free shall keep out of the way of a vessel which is close-hauled.

(b) A vessel which is close-hauled on the port tack shall keep out of the way of a vessel which is close-hauled on the starboard tack.

(c) When both are running free, with the wind on different sides, the vessel which has the wind on the port side shall keep out of the way of the other.

(d) When both are running free, with the wind on the same side, the vessel which is to the windward shall keep out of the way of the vessel which is to the leeward.

(e) A vessel which has the wind aft shall keep out of the way of the other vessel.

110. Where, by any of these rules, one of two vessels is to keep out of the way, the other shall keep her course and speed.

111. Notwithstanding anything contained in these rules, every vessel overtaking another shall keep out of the way of the overtaken vessel.

112. Sailing vessels under way shall keep out of the way of sailing vessels or boats fishing with nets, or lines, or trawls. This rule shall not give to any vessel or boat engaged in fishing the right of obstructing a fairway used by vessels other than fishing vessels or boats.

113. Nothing in these rules shall exonerate any vessel, or the owner or master or crew thereof, from all the consequences of any neglect of any precaution which may be required by the ordinary practice of seamen, or by the special circumstances of the case.

114. In obeying and construing these rules due regard shall be had to all dangers of navigation and collision, and to any special circumstances which may render a departure from the above rules necessary in order to avoid immediate danger.

115. In fog, mist, or heavy rainstorms, whether by day or night, signals shall be given as follows:

(a) A steam vessel under way, except when towing other vessels or being towed, shall sound, at intervals of not more than one minute, on the whistle or siren, a prolonged blast.

(b) A vessel when towing other vessels shall sound, at intervals of not more than one minute, on the whistle or siren, three blasts in succession, namely: one prolonged blast followed by two short blasts.

(c) Seagoing dredges, when dredging in a fog, shall give four blasts in succession: one prolonged blast followed by three short blasts.

(d) A vessel towed may give, at intervals of not more than one minute, on the fog horn, a signal of three blasts in succession, namely: one prolonged blast followed by two short blasts, and she shall not give any other.

(e) A sailing vessel under way shall sound, at intervals of not more than one minute, when on the starboard tack one blast, when on the port tack two blasts in succession, and when the wind is abaft the beam three blasts in succession.

(f) All rafts or other water craft, not herein provided for, navigated by hand power, horsepower, or by the current of the river, shall sound

a blast on the fog horn, or equivalent signal, at intervals of not more than one minute.

(g) A vessel at anchor shall, at intervals of not more than one minute, ring the bell rapidly for about five seconds.

116. Every vessel shall, in fog, mist, or heavy rainstorm, go at a moderate speed, slow down, or stop, having due regard to the existing circumstances and conditions.

117. A steam vessel hearing, apparently forward of her beam, the fog signal of a vessel the position of which is not ascertained, shall, as far as the circumstances of the case admit, stop her engines, and then navigate with caution until the danger is over.

118. In thick and foggy weather vessels will not be allowed to enter the Canal or leave the locks or mooring station, until the weather has cleared. Vessels in transit, when overtaken by thick or foggy weather, must immediately take every precaution and make preparation to anchor or moor at the first available place, and so remain until the weather clears. Vessels equipped with radio, when overtaken by thick or foggy weather, should immediately so report, in order that the proper fog signal may be made at the mooring stations on the approach of such vessels.

119. In order further to assure safe navigation in thick or foggy weather, masters of vessels shall have prepared accurate tables showing their compass error, before they will be allowed to enter the Canal. The general direction of the Canal and its reaches is southeasterly and northwesterly, and it would be well, if an opportunity offers, for vessels to obtain an accurate deviation table on these courses, while in the approximate latitude and vicinity of the Canal.

120. Upon the first approach of thick weather of any kind, the position of the ship must be accurately checked and the closest possible reckoning be kept until the weather clears, or she shall have been moored or anchored.

121. Unnecessary sounding of the steam whistle, except as a danger signal or in case of fire or emergency, is prohibited within the waters of the Canal Zone; and any licensed officer in charge of a steamer who authorizes or permits such unnecessary whistling shall, upon conviction thereof before the Board of Local Inspectors having jurisdiction, be suspended from acting under his license, if the inspectors trying the case so decide.

122. The word "visible" in these rules, when applied to lights, shall mean visible on a dark night with a clear atmosphere.

123. The rules concerning lights shall be complied with in all weathers from sunset to sunrise, and during such time no other lights which may be mistaken for the prescribed lights shall be exhibited.

124. A steam vessel when under way shall carry:

(a) On or in front of the foremast, or, if a vessel without a foremast, then in the fore part of the vessel, a bright white light so constructed as to show an unbroken light over an arc of the horizon of 20 points of the compass, so fixed as to throw the light 10 points on each side of the vessel, namely: from right ahead to two points abaft the beam on either side, and of such a character as to be visible at a distance of at least five miles.

(b) On the starboard side a green light so constructed as to show an unbroken light over an arc of the horizon of 10 points of the compass, so fixed as to throw the light from right ahead to two points abaft the beam on the starboard side, and of such a character as to be visible at a distance of at least two miles.

(c) On the port side a red light so constructed as to show an unbroken light over an arc of the horizon of 10 points of the compass, so fixed as to throw the light from right ahead to two points abaft the beam on the port side, and of such a character as to be visible at a distance of at least two miles.

(d) The said green and red side lights shall be fitted with inboard screens projecting at least three feet forward from the light, so as to prevent these lights from being seen across the bow.

(e) A seagoing steam vessel shall carry an additional white light similar in construction to the light mentioned in subdivision "a." These two lights shall be so placed in line with the keel that one shall be at least 15 feet higher than the other, and in such a position with reference to each other that the lower light shall be forward of the upper one. The vertical distance of these lights shall be less than the horizontal distance.

125. A steam vessel when towing another vessel shall, in addition to her side lights, carry two white bright lights in a vertical line, one over the other, not less than three feet apart, and when towing more than one vessel, shall carry an additional bright white light three feet above or below such lights, if the length of the tow measuring from the stern of the towing vessel to the stern of the last vessel towed exceeds 600 feet. Each of the lights shall be of the same construction and character, and shall be carried in the same position as the white light "a," previously mentioned for steamers.

126. Such steam vessel may carry a small white light abaft the funnel, aftermast, or at the stern, for the vessel towed to steer by, but such light shall not be visible forward of the beam.

127. A sailing vessel under way or being towed shall carry the same lights "b" and "c" as are prescribed for a steam vessel under way, with the exception of the white lights mentioned, which they shall never carry.

128. Whenever, as in the case of vessels of less than 10 gross tons under way during bad weather, the green and red side lights cannot be fixed, these lights shall be kept at hand lighted and ready for use, and shall, on the approach of or to other vessels be exhibited on their respective sides in sufficient time to prevent collision, in such manner as to make them most visible, and so that the green light shall not be seen on the port side nor the red light on the starboard side, nor, if practicable, more than two points abaft the beam on their respective sides. To make the use of these portable lights more certain and easy, the lanterns containing them should each be painted outside with the color of the light which they respectively contain, and shall be provided with proper screens.

129. Pilot vessels when engaged on their station on pilotage duty shall not show the lights required for other vessels, but shall carry a white light at the masthead, visible all around the horizon, and shall also exhibit a flare-up light or flare-up lights at short intervals, which shall never exceed 15 minutes.

130. A steam pilot vessel when engaged on pilotage duty and not at anchor shall, in addition to the lights required for all pilot vessels, carry at a distance of eight feet below her white masthead light, a red light visible all around the horizon and of such a character as to be visible on a dark night with a clear atmosphere at a distance of at least two miles, and also the colored side lights required to be carried by vessels when under way.

131. When engaged on her station on pilotage duty and at anchor she shall carry, in addition to the lights required for all pilot boats, the red light above mentioned, but not the colored side lights.

132. Fishing vessels less than 10 gross tons, when under way, and not having their nets, dredges, or lines in the water, shall carry the usual white light eight feet above the deck and shall have ready at hand a lantern with a green glass on one side and a red glass on the other side, and on approaching or being approached by another vessel, such lantern

shall be exhibited in sufficient time to prevent collision, so that the green light shall not be seen on the port side nor the red light on the starboard side.

133. All fishing vessels and fishing boats of 10 gross tons or upward, when under way and not having their nets, trawls, dredges or lines in the water, shall carry and show the same lights as other vessels under way.

134. All vessels, when trawling, dredging, or fishing with any kind of dragnets or lines, shall exhibit, from some part of the vessel where they can be best seen, two lights. One of these lights shall be red and the other shall be white. The red light shall be above the white light, and shall be at a vertical distance from it of not less than 6 feet and not more than 12 feet; and the horizontal distance between them, if any, shall not be more than 10 feet. These two lights shall be of such a character and contained in lanterns of such construction as to be visible all around the horizon, the white light at a distance not less than three miles and the red light not less than two miles.

135. A vessel which is being overtaken by another shall show from her stern to such last-mentioned vessel a white light or a flare-up light.

136. A vessel under 150 feet in length when at anchor shall carry forward, where it can best be seen, but at a height not exceeding 20 feet above the hull, a white light, in a lantern constructed so as to show a clear, uniform and unbroken light visible all around the horizon at a distance of at least one mile.

137. A vessel of 150 feet or upward in length when at anchor shall carry in the forward part of the vessel, at a height of not less than 20 feet and not exceeding 40 feet above the hull, one such light, and at or near the stern of the vessel, and at such a height that it shall not be less than 15 feet lower than the forward light, another such light.

138. The length of the vessel shall be deemed to be the length appearing in her certificate of registry.

139. Every vessel may, if necessary in order to attract attention, in addition to the lights which she is by these rules required to carry, use a flare-up light or use any detonating signal that cannot be mistaken for a distress signal.

140. Every barge, lighter, canal boat, or scow, that is moored alongside of any ship or another barge, or to the side of the Canal, or to any wharf, or lying at anchor on the navigable waters of the Canal Zone, shall show, between the hours of sunset and sunrise, a white light on the bow

and stern, at least three feet above the deck of said vessel, and not less than eight feet from the bow and stern thereof.

141. Nothing in these rules shall interfere with the operation of any special rules made by the government of any nation with respect to additional station and signal lights for two or more ships of war or for vessels sailing under convoy, or with the exhibition of recognition signals adopted by shipowners, which have been authorized by their respective governments, and duly registered and published, unless specific instructions are given by the Canal authorities to discontinue the use of such lights while in transit through the Canal.

142. A steam vessel proceeding under sail only, but having her funnel up, may carry in daytime, forward, where it can best be seen, one black ball or shape two feet in diameter.

143. Seagoing suction dredges, when under way and dredging, shall carry, beside the lights prescribed for steamers under way, between the two masts where they can best be seen, two red lights approximately the same height as the masthead light of a steamer, in a vertical line one over the other, not less than six feet apart, and of such a character as to be visible all around the horizon at a distance of at least two miles; and they shall, by day, carry between the two masts where they can best be seen, in a vertical line one over the other not less than six feet apart, two black balls or shapes, each two feet in diameter.

144. Seagoing suction dredges, when dredging is stopped and the dredge is proceeding either to or from her dumping ground, either loaded or light, shall, at night, extinguish the two red lights and, by day, lower the black balls.

145. Seagoing suction dredges, while actually engaged in dredging, as shown by the black balls or red lights, above, shall have the right of way over all other vessels, but in the narrower reaches and the Culebra Cut shall give way to seagoing ships; but when not dredging, as shown by the absence of the black balls or red lights, shall observe all the rules, and have no special privilege.

146. Ferryboats, propelled by machinery and navigating the waters of the Canal Zone, shall carry the range lights and the side lights required by law to be carried on steam vessels.

147. Barges, canal boats, scows, and lighters being towed astern of steam vessels, when towing singly or what is known as tandem towing, shall each carry a white light on the bow and a white light on the stern.

148. When towed with a hawser two or more abreast, when in one

tier, they shall carry a white light on the bow and a white light on the stern of each of the outside boats; when in more than one tier, each of the outside boats shall carry a white light on its bow; and the outside boats in the last tier shall each carry, in addition, a white light on the outer after part of the stern.

149. Barges, etc., towed alongside a steam vessel, if on the starboard side of said steam vessel, shall display a white light on her own starboard bow, and if on the port side of said steam vessel, shall display a white light on her own port bow; and if there be more than one barge or canal boat alongside, the white light shall be displayed from the outboard side of the outside barge or canal boat.

150. When barges, etc., are in tiers and towed at a hawser, there shall be carried on the forward port side of each tier a white light, and on the forward starboard side of the starboard boat in each tier a white light, and on the after port side of the port boat in the stern tier a white light, and on the after starboard side of the starboard tier a white light.

151. Rafts propelled by hand power, or by the current of the river or tide, or which shall be anchored in or near the channel or fairway, or proceeding in tow of a steam vessel, shall carry one white light on each outside corner of the raft, making four lights in all.

152. Row boats and cayucos, whether under oars or sail, shall carry a white light, visible all around the horizon, at an elevation above the surface of the water of at least three feet.

153. The white light required by these rules for rafts and other water craft shall be carried from sunset to sunrise, in a lantern so constructed as to show a clear, uniform, and unbroken light, visible all around the horizon, and of such intensity as to be visible on a dark night with a clear atmosphere at a distance of at least one mile. The lights for rafts shall be suspended so that the lights shall not be less than eight feet above the surface of the water.

154. Any piece of plant, whether dredge, rock-breaker, or drill barge, that is operated by means of fore, aft, and side chains, shall carry, when said fore, aft and side chains are taut, a black ball on each side of the dredge, in some conspicuous place at least eight feet above the deck, and near the position of the side chains; at night these balls shall be replaced by a red light which shall show all around the horizon and be plainly visible at a distance of one mile.

155. When a steamer wishes to pass the dredge, drill boat, or rock-breaker, at a point where it might foul its side chains, it should ask per-

mission to pass, by using the signal for port or starboard, as provided in the foregoing rules, and the dredge, drill boat, or rock-breaker shall immediately lower its chain on the side asked for by the steamer, indicating its fulfillment of this by, in the daytime, lowering the ball; in the night, putting out the red light.

156. If the dredge, drill boat or rock-breaker is unable to lower its side chain, or should consider it dangerous for the steamer to pass on the side asked for, the dredge, drill boat or rock-breaker will blow the danger signal, when the steamer will stop until the ball or light signal given above shall be shown.

157. Any master or pilot of any steam vessel who shall flash or cause to be flashed the rays of the searchlight into the pilot house of a passing vessel shall be deemed guilty of misconduct and shall be liable to have his license suspended or revoked; in general, searchlights shall not be used for navigation purposes in transit through the Canal, since the aids to navigation are sufficiently abundant to obviate any danger or necessity for using them.

158. When a vessel is in distress and requires assistance from other vessels, or from the shore, the following shall be the signals to be used or displayed by her, either together or separately, namely:

First: Flames on a vessel, as from a burning tar barrel, oil-barrel, etc.

Second: A continuous sounding with any fog-signal apparatus, or firing a gun.

Third: Rockets or shells showing stars, fired one at a time, at short intervals.

159. In connection with these, vessels may use the international code and special signals with shapes, hereafter described.

160. When lighters, barges, scows, or canal boats are tied or moored along any wharf, or along the shore in the channel in the navigable waters of the Canal Zone, including the Canal and approaches thereto, it shall be unlawful to moor them more than two deep, thereby obstructing the channel.

161. Except in the terminal harbors or the authorized anchorages, vessels shall not moor alongside one another in any part of the Panama Canal. In the terminal harbors and authorized anchorages more than two vessels shall not be moored alongside each other, except that additional power hoists may be moored alongside two vessels so connected, while actually engaged in transshipping cargo.

162. Nothing in this rule shall be constructed as affecting the right of

the Panama Canal to moor barges used by Canal construction and maintenance in any manner that may be deemed proper.

163. Every piece of plant, except seagoing suction dredges, whether dredge, rock-breaker, or drill barge, that is engaged in excavating or preparing to excavate the Canal, whose position is stationary, or moving from time to time over the face of the shoal that it is working on or removing, shall have the prior right to such position, and it shall be unlawful for any person or persons, navigating a ship or otherwise, to foul above-named plant or its moorings in any way whatever.

164. All barges moved from berth to berth along wharves or banks of the Canal shall be moved by being handled by proper towboat for same, and it shall be unlawful to move barges by hand power in the navigable fairways of the Canal, unless to preserve life or property in peril.

General Regulations

165. While in a terminal port or in transit through the Canal no vessel will be allowed to throw overboard any ashes, cinders, ballast, solid matter of any kind, boxes, paper, or anything that will float, heavy slops, or anything that will tend to deface or make the waters of the Canal unsanitary. This does not apply to water-closet chutes, nor to the water used in cooking or in cleaning table-ware, but does prohibit the throwing overboard of bones, pieces of meat, vegetable and fruit parings, or any heavy slops that can be carried until the open water of the sea can be reached.

166. No vessel shall make fast or run any lines to any marking buoy, beacon, or aid to navigation; this does not prohibit the use of mooring buoys for the purpose for which they were intended; vessels must use every precaution to guard against injury to any of the aids to navigation in Canal waters; should any damage or injury be inflicted, it shall be immediately reported to the Captain of the Port.

167. Any vessel arriving at the ports with gunpowder or other explosives on board will not be admitted to the wharves or allowed to land the same until a report is made to the proper authority and an arrangement entered into for the immediate disposal of the explosives.

168. Vessels are not allowed to anchor in the channel of the Canal or its approaches, unless in case of distress, when assistance should at once be requested.

169. If for any reason not an emergency, a vessel must anchor, she

must do so in such a location that it will not interfere with the navigation of the channels.

170. All vessels upon entering port will be assigned to anchorage or wharves by the Captain of the Port.

171. Vessels must not anchor on the range line of any range lights.

172. Vessels will be held liable for all damage done to the Canal or any part of its plant or equipment, of any character or description whatsoever, whether the damage be done to the floating equipment, wharves, locks, or banks of the Canal; and in the case of the sinking of any floating or other equipment belonging to private persons or corporations in the channel of the Canal, or its approaches, side channels, or along its wharves, that create or tend to create an obstruction in the Canal or its approaches, side channels, or along its wharves, the person or company owning the sunken equipment may be given thirty days to remove the same. Should he or they fail to do so, the Canal authorities may remove the obstruction and the person or corporation owning the same shall pay all the expense of the removal of the obstruction, to be collected by a civil suit in the Zone courts and a levy and sale of any property of the persons or corporations found in the Canal Zone or its harbors.

173. The Canal authorities may order the removal of the obstruction at once, or remove it without waiting for action by the owners, and the cost of such removal shall be taxed and collected as mentioned above.

174. Should a vessel go aground, collide, be in imminent danger, or meet with any serious accident while in Canal waters, the Canal authorities shall have the right to supervise and direct all operations in relation thereto, that may be necessary to float her or clear the wreckage; but the master and all others under him, as well as every appliance on board the ship which may be of use, shall be placed at the disposal of the Canal authorities without additional charge or claim against the Canal.

175. Vessels wishing to unload or load ballast will be assigned anchorage by the Captain of the Port, and must have a proper chute, so arranged as to prevent ballast from falling overboard.

176. No warp or line shall be passed across any channel or dock so as to obstruct the passage of vessels or cause any interference with the discharging of cargoes.

177. If any damages shall be caused by vessels or their mooring cables to the works of any harbor, the parties responsible for same shall pay the costs for necessary repairs, and the same may be recovered in the courts of the Canal Zone.

178. If a vessel occupying a berth at a wharf or pier, with or without the consent of the Captain of the Port, fails to vacate such berth when ordered by him, or when not loading or unloading, fails to make way for another vessel that wishes to load or unload, the Captain of the Port shall then cause such vessel to be moved to some other berth, or be anchored in the stream, and the expense of such removal shall be paid by the master, agents, or owners of such vessel, and in case of their neglect or refusal to pay such expense upon demand, it may be recovered in an action before any court having jurisdiction.

179. No vessel shall be entitled to a berth until application has been made by the master, owner, or consignee of the vessel, to the Captain of the Port, and such application must state the length, draft, and kind of cargo. No one but the Captain of the Port has authority to assign berths to vessels. No vessel, whether at anchor or lying at a wharf, shall shift its berth, without permission from the Captain of the Port.

180. All goods, merchandise, and material of every kind, landed or placed on any pier, bulkhead, or other wharf property, or upon reclaimed land, must be removed therefrom within 36 hours, provided, that the Captain of the Port for good cause may extend the time. All goods, merchandise and materials of every kind encumbering any pier, bulkhead, or other wharf structure or reclaimed land, after the time designated for the removal thereof shall have expired, will be liable to be removed by the Captain of the Port to any warehouse or yard, at the sole risk and expense of the owner of such goods, merchandise, or materials, and all expense incurred for such removal and storage, or otherwise, shall be and become a lien thereon, and such goods, merchandise, and materials will not be delivered to the owner until the expense of such removal and storage has been paid.

181. It shall not be lawful for the owners, lessees, or occupants of any pier, wharf, or bulkhead, which has been covered with a shed, to use such shedded pier, wharf, or bulkhead for the permanent storage of goods, merchandise, cargo, or material of any kind which may be discharged or placed thereon.

182. Piers, wharves, and bulkheads thus shedded are designated for the protection of merchandise and cargo in transit, and such merchandise and cargo must be removed therefrom within 36 hours; provided, that the Captain of the Port may for good cause extend the time.

183. No accumulation of material upon the piers, wharves, bulkheads

and reclaimed land will be allowed, and whenever any pier, wharf, bulkhead or reclaimed land shall be encumbered or obstructed in its free use by any vessel, merchandise or material, or by any structure, encumbrance, or obstruction not authorized or permitted, the Captain of the Port may require the owner, agent, consignee, or person occupying or in charge of such merchandise or obstruction, to remove the same without delay. Upon receiving said order the owner, agent, consignee, or person in charge of the vessel, merchandise, material, structure, encumbrance, or obstruction, in reference to which said order or direction was given shall comply with the same without delay and upon his refusal or failure to do so, shall be punished by a fine or imprisonment as hereinbefore provided.

184. No fishing nets will be allowed in any place in the Canal, along its wharves, or in its channels, whenever in the opinion of the Superintendent of Transportation such nets interfere or might interfere with navigation, and it shall be the duty of the owner thereof, upon notification, to remove them immediately.

185. Anyone finding any buoy out of position, or lights not working properly, should immediately report the same to the Captain of the Port.

186. Steamers while within a harbor must take all precautions to avoid the issue of sparks, any vessels will be held liable for all damage resulting from neglect of this rule.

187. No pitch, tar, turpentine, or other combustible, shall be boiled on any wharf, or on board any vessel without permission from the Captain of the Port.

188. In case of fire on board a vessel, all masters of other vessels shall render such assistance as may be in their power.

189. A vessel anchored or moored in the harbor or lying at a dock must at all times, night or day, have on board a sufficient number of men to take care of the vessel.

190. No vessel shall unload lumber, timber, or piles in the waters of a harbor without permission of the Captain of the Port, who shall designate where such lumber shall be rafted, so as to avoid obstructing or hindering the movements of vessels.

191. Lighters, barges, scows, and other vessels belonging to persons or corporations of any and all descriptions shall be anchored in such places as the Captain of the Port may direct, and shall be at all times under his supervision and direction.

192. The Captain of the Port shall keep in his office records of all his proceedings with statements of the result of all examinations and inquiries made by him, which records may be inspected by interested parties.

193. All notifications and requests to the Captain of the Port shall be made at his office, in writing, and shall be duly entered and filed by him.

194. It shall be unlawful for any person, without first having secured a pilot's license from the Government of the Canal Zone, to navigate any steam vessel with a net tonnage of more than 15 tons burden in Canal Zone waters.

195. All privately owned boats of every description must be registered and numbered, and the number must be obtained before they will be allowed to operate in any part of the Canal waters.

196. When numbers have been assigned, they shall be displayed in a conspicuous place, in the prescribed form.

197. All vessels moored to wharves, whether loading or unloading cargo or in the ordinary way of business, shall be moored to the wharves with rope hawsers only, and it shall be unlawful for any chain or wire hawsers to be used on any public wharf in the Canal Zone without the specific permission of the Captain of the Port.

198. All vessels, whether commercial or otherwise, moored to wharves in the Canal Zone, shall be compelled to keep watch at night and to have suitable fire-fighting apparatus on hand.

199. Whenever it shall become necessary to remove any especially inflammable cargo from commercial ships, or ships at public wharves of the Canal Zone, such as oils, gasoline, naphtha, petroleum, etc., it shall be necessary for notice to be given to the Captain of the Port at least two hours before such cargo shall be discharged upon the wharf, so that proper means can be provided to dispose of this class of material at the earliest possible moment.

200. It shall be unlawful for any person or persons, whether navigating a vessel or otherwise, to take possession of or use for any purpose, to make fast to or build upon, to alter, deface, destroy, move or injure any part of the plant or equipment, whether floating or otherwise, belonging to the Canal.

201. These rules shall apply to and govern the navigation and use of the waters of the Panama Canal, as the Canal is now or may hereafter be constituted, as well as all Canal channels, lakes, harbors, and other auxiliary waters, as may now or hereafter be deemed necessary for Canal

purposes, or which may now or hereafter be under the jurisdiction of the Canal Zone Government.

WOODROW WILSON.

THE WHITE HOUSE,
9 July, 1914.

EXECUTIVE ORDER AMENDING PARAGRAPH 49 OF THE "RULES AND REGULATIONS FOR THE OPERATION AND NAVIGATION OF THE PANAMA CANAL AND APPROACHES THERETO, INCLUDING ALL WATERS UNDER ITS JURISDICTION"

No. 2073

By virtue of the authority vested in me under the Panama Canal Act, Paragraph 49 of the "Rules and Regulations for the Operation and Navigation of the Panama Canal and Approaches Thereto, Including All Waters Under Its Jurisdiction," promulgated by Executive Order No. 1990, dated July 9, 1914, is hereby amended to read as follows:

49. No radio tolls, either coast station or forwarding, will be imposed against ships on radiograms transmitted by ships on Canal business. There will be no charge made against the Panama Canal, by Canal Zone land lines or radio stations, for the transmission of radiograms to ships on Canal business.

WOODROW WILSON.

THE WHITE HOUSE,
4 November, 1914.

BOUNDARY CONVENTION BETWEEN THE UNITED STATES AND PANAMA ¹

Signed at Panama, September 2, 1914; ratifications exchanged February 11, 1915

Whereas, Gen. George W. Davis, then Governor of the Canal Zone, on behalf of the United States of America, and Messrs. Tomás Arias and Ramón Valdés López, then Secretary of Foreign Affairs and Attorney General, respectively, of the Republic of Panama, acting on behalf of that Republic, entered into an agreement on the 15th day of June, 1904,

¹ U. S. Treaty Series, No. 610.

by the terms of which the Republic of Panama delivered over to the United States of America, the use, occupation, and control in perpetuity of the zone of land ten miles in width described and mentioned in Articles II and III of the Canal Treaty between the United States of America and the Republic of Panama, dated November 18, 1903, and the boundary lines of said zone, as well as those of the cities of Panama and Colon and their adjacent harbors, were subsequently located upon the ground and monumented:

And, whereas, the President of the Republic of Panama, by decree number 46 of May 17, 1912, delivered over to the United States the use, occupation, and control of the areas of land to be covered by the waters of Lake Gatun and all that part of the shores of the lake up to an elevation of one hundred feet above sea level, in conformity with Articles II and III of said Canal Treaty:

And whereas, since the promulgation of said decree of May 17, 1912, the United States, in conformity with the said articles of said treaty, have taken over the use, occupation, and control of the islands in said Lake Gatun and the peninsulas bordering on said lake to which there is no access except from said lake or from lands within the jurisdiction of the Canal Zone;

Now, therefore, the Government of the United States and the Republic of Panama being desirous to establish permanently the boundary lines of the above-mentioned lands and waters so taken over by the United States, to that end have resolved to enter into the following agreement, for which purpose the President of the United States of America has commissioned His Excellency William Jennings Price, Envoy Extraordinary and Minister Plenipotentiary of the United States to the Government of Panama, and the President of the Republic of Panama has commissioned His Excellency Ernesto T. Lefevre, Secretary of State in the office of Foreign Affairs of the Republic of Panama, who, having exchanged their respective full powers, have entered into the following boundary convention:

I

It is agreed that the boundary lines of the zone of land of ten miles in width described in Article II of the said Canal Treaty shall remain as defined and established by the agreement of June the 15th, 1904, above mentioned, and subsequently located on the ground and monumented as shown by exhibit "A" accompanying this convention, with the modifi-

cations hereinafter set out in respect to the cities of Panama and Colon and their adjacent harbors.

II

In conformity with Articles II and III of said treaty the rights of the United States to the use, occupation, and control of the areas to be covered by the waters of Gatun Lake and all that part of the shores of the lake up to an elevation of one hundred feet above mean sea level, and the islands in said lake, is hereby recognized, and in like manner the right of the United States to the use, occupation, and control of the peninsulas bordering on said lake to which there is no access except over lands of the Canal Zone or from the waters of Gatun Lake, is hereby recognized.

The one hundred feet contour line above referred to, as well as the peninsulas above mentioned, shall be conveniently monumented and marked upon the ground by the United States, with the intervention of a representative or representatives of the Republic of Panama designated for that purpose, and sketched upon a special map.

III

It is agreed that the permanent boundary line between the City of Panama and the Canal Zone shall be as follows:

Beginning at a concrete monument located above high water mark on the shore of Panama Bay, south of the Balboa Road on the slope of the headland called "Punta Mala," and north thirty-two degrees and thirty minutes west (N. 32° 30' W.) and one hundred and fifty (150) meters from about the center of an island called "Gavilan."

From the above concrete monument (marked "A" on the map) the boundary line runs north twenty degrees and two minutes east (N. 20° 2' E.) six hundred and thirty-three and seven-tenths (633.7) meters to a concrete monument (marked "B" on the map) located at the intersection of the easterly line of the Zone Boundary road, and the northerly line of the road leading from Panama to Balboa; thence north thirty-six degrees and forty-two minutes east (N. 36° 42' E.) nine hundred and sixty-six and eighty-five hundredths (966.85) meters to a concrete monument (marked "C" on the map) on the northerly side of the road leading to Ancon Hospital grounds; thence north three degrees and nineteen minutes east (N. 3° 19' E.) one hundred and forty-eight and

forty-six one-hundredths (148.46) meters to an iron rail property monument; thence north eight degrees and fourteen minutes, and forty seconds west (N. $8^{\circ} 14' 40''$ W.) one hundred and fifty-one and thirty-three one-hundredths meters (151.33) to a point; thence north thirty-seven degrees and forty-five minutes east (N. $37^{\circ} 45'$ E.) fourteen and thirty-three one-hundredths meters to a point in the road on the present boundary line; thence along said present boundary north no degrees and forty-seven minutes west (N. $0^{\circ} 47'$ W.) sixty-six and forty-four one-hundredths meters (66.44) to a point; thence north seventy-six degrees and fifty-nine minutes east (N. $76^{\circ} 59'$ E.) forty-two and forty-five one-hundredths (42.45) meters to a point; thence south seventy-two degrees and eleven minutes east (S. $72^{\circ} 11'$ E.) one hundred and fifty-nine and twenty-seven one-hundredths (159.27) meters to a point near Calidonia Bridge; thence north three degrees and eight minutes east (N. $3^{\circ} 8'$ E.) crossing the Panama Railroad Company's tracks, seventy-seven and three-tenths (77.3) meters to a point twelve and two-tenths (12.2) meters from the center line of the main track of the said Panama Railroad; thence parallel to the said railroad in a north-westerly direction, two hundred and ninety and five-tenths (290.5) meters to a point on the present boundary line; thence north forty-nine degrees, thirteen minutes and ten seconds west (N. $49^{\circ} 13' 10''$ W.) and one hundred and sixty-five and thirty-seven one-hundredths (165.37) meters to an iron rail monument, twelve and three-tenths (12.3) meters from the center of the main line track of the Panama Railroad; thence north forty-six degrees, thirty-nine minutes and thirty seconds west (N. $46^{\circ} 39' 30''$ W.) two hundred and twenty and four one-hundredths (220.04) meters to a Panama Railroad Boundary monument twenty-two and one-tenth (22.1) meters from the center line of Panama Railroad main line track; thence north forty-nine degrees and fourteen minutes west (N. $49^{\circ} 14'$ W.) and parallel with the Panama Railroad track two hundred and ninety and thirty-six one-hundredths (290.36) meters to Rio Curundu; thence following the course of Rio Curundu up-stream to a point (marked "E" on the map) where the said Rio Curundu is intersected by a straight line drawn through the point of intersection on the canal axis (marked "Cocoli" on the map) perpendicular to that part of the Canal axis of A. D. 1906 which extends in a straight line southeasterly from the said point marked "Cocoli" to the point of intersection (marked "Bay" on the map) the former point of intersection being situated between Miraflores and Corozal, and the latter point in Ancon Harbor; thence

from "E" north sixty-three degrees and thirty minutes east (N. 63° 30' E.) two thousand and eight and six-tenths (2,008.6) meters to a concrete monument (marked "F" on the map) on the present boundary between the Canal Zone and the Republic of Panama; thence along this boundary south twenty-six degrees and thirty-four minutes east (S. 26° 34' E.) about four thousand seven hundred and forty-four and five-tenths (4,744.5) meters to monument No. 99 and thence continuing on this line to the shore of Panama Bay at low water mark; thence following the mean low water line around the shore of Panama Bay to a point on the boundary line between Panama Harbor and Ancon Harbor; thence north seventy-two degrees, fourteen minutes west (N. 72° 14' W.) to a monument "A," the point of beginning, except that the entire area of the middle island on the map called Las Tres Hermanas shall be under the jurisdiction of the United States of America.

Points "A," "B" and "C," above referred to, are the same points mentioned in the original agreement between the Government of the Republic of Panama and the Canal Zone Government, dated June 15, 1904.

All bearings in this description and on the map mentioned above are referred to true meridian and all coördinates are in accordance with the Panama-Colon Datum.

The Government of Panama agrees that the portion of the roadway now existing between the Ancon Post Office and the Tivoli Dispensary and connecting the Tivoli Road with the roads leading to Balboa and the Ancon Hospital grounds, which will fall within Panaman jurisdiction as a result of the boundary lines established in accordance with the foregoing description, will be kept open and of the same grade as same now is and will be maintained in good serviceable condition by the said Government of Panama so that it will afford a free, uninterrupted and unobstructed permanent public thoroughfare, unless in the future provided otherwise by the mutual agreement of the chief executive authorities of the Republic of Panama and the Panama Canal.

IV

It is agreed that the harbor of the City of Panama shall include the maritime waters in front of the City of Panama lying to the north and east of a line beginning at a concrete monument set on "Punta Mala" marked "A" on the map already referred to in this convention, and

running south seventy-two degrees and fourteen minutes east (S. 72° 14' E.) through the middle island of the three islands known as "Las Tres Hermanas," but excluding the said middle island, and extending three marine miles from mean low water mark at Punta Mala; and that the harbor of Ancon shall include the waters lying south and west of said line, but including the said middle island which shall be deemed to be within the harbor of Ancon. The said middle island hereby included within the harbor of Ancon is situated about south twelve degrees, thirty minutes west (S. 12° 30' W.) eight hundred and fifty-six (856) meters from the point of Las Bovedas and lies in latitude north eight degrees, fifty-six minutes (N. 8° 56') plus one thousand and fifty-eight and eighty-eight hundredths (1,058.88) meters and longitude west seventy-nine degrees, thirty-two minutes (W. 79° 32') plus three hundred forty-two and six-tenths (342.6) meters, the datum of said latitude and longitude being what is generally known as the Panama-Colon Datum. All bearings are referred to true meridian.

The foregoing description of the City of Panama and Panama Harbor conform to the accompanying blue print marked exhibit "B."

V

It is agreed that the permanent boundary line between the City of Colon and the Canal Zone shall be as follows:

Beginning at a point on the western shore of Boca Chica (sometimes called Folks River) marked "A" on the map, and fifty (50) meters to the eastward of the center line of the main line of track of the Panama Railroad; thence northward and north-westward, always parallel with said railroad track, and at a uniform distance of fifty (50) meters from the center line thereof to the center of Bolivar Street (sometimes called "C" street), said point being marked "B" on the map; thence northerly along the center line of said Bolivar Street, to the center line of Eleventh Street, this point of intersection being marked "C" on the map; thence westerly along the center line of Eleventh Street, a distance of one hundred sixty-two and fifty-three hundredths (162.53) meters to a cross on the sea wall along Limon Bay, said point being marked "D" on the map; thence north seventy-eight degrees, thirty minutes and thirty seconds west (N. 78° 30' 30" W.) to the shore of Limon Bay at mean low water mark; thence following the mean low water line around the shore in a northerly, easterly, southerly, and westerly direction to the point of

beginning, except that at the site of the old Colon lighthouse a detour is made, as shown on the map, to exclude an area of land to be used as the site for a United States battery, which site shall be deemed to be within the Canal Zone.

The site for a United States battery above mentioned, which is to be included within the jurisdiction of the Canal Zone, is described as follows:

The initial point is a tack in a stake on Colon point, situated with reference to certain prominent points as follows: South forty-one degrees, six minutes east (S. $41^{\circ} 6' \text{ E.}$) twenty-five and twenty-two one-hundredths (25.22) feet from the southwest interior corner of the upper pavement of the swimming pool; south eleven degrees, thirty-seven minutes west (S. $11^{\circ} 37' \text{ W.}$) one hundred twenty-seven and sixty-eight one-hundredths (127.68) feet from a cross mark on a bolt set in a concrete base thirteen and nine-tenths (13.9) feet to the northeast of the center of the northeastern edge of the swimming pool; south thirty-five degrees, eighteen minutes west (S. $35^{\circ} 18' \text{ W.}$), two hundred sixty-six and seventy-five one-hundredths (266.75) feet from the northwestern corner of the Hotel Washington; and north sixty-eight degrees, twenty-nine minutes west (N. $68^{\circ} 29' \text{ W.}$), five hundred forty-three and ninety-five one-hundredths (543.95) feet from the cross mark on a rail set in a concrete base at a point where the south building line of Second Street intersects the center line of Bottle Alley; from this initial point south forty-three degrees, no minutes west (S. $43^{\circ} 00' \text{ W.}$), two hundred fifty-eight and five-tenths (258.5) feet to a point; thence north forty-seven degrees, no minutes west (N. $47^{\circ} 00' \text{ W.}$) ninety and sixty-four one-hundredths (90.64) feet to a point; thence by a curve to the right with a radius of fifty-six and eighty-six one-hundredths (56.86) feet and a central angle of forty-five degrees, no minutes ($45^{\circ} 00'$), forty-four and sixty-six one-hundredths (44.66) feet to a point; thence by a curve to the right with a radius of ninety-one (91) feet and a central angle of forty-five degrees, no minutes ($45^{\circ} 00'$), seventy-one and forty-seven one-hundredths (71.47) feet to a point; thence north forty-three degrees, no minutes east (N. $43^{\circ} 00' \text{ E.}$), one hundred seventy-seven and five-tenths (177.5) feet to a point; thence south forty-seven degrees, no minutes east (S. $47^{\circ} 00' \text{ E.}$), one hundred fifty-seven and five-tenths (157.5) feet to the point of beginning, containing ninety-one one-hundredths (0.91) acres, more or less. All bearings are referred to true meridian (Panama-Colon Datum).

VI

The harbor of Colon shall consist of those maritime waters lying to the westward of the City of Colon and bounded as follows:

The southerly boundary of the harbor of Colon is in a line running north seventy-eight degrees, thirty minutes and thirty seconds west (N. $78^{\circ} 30' 30''$ W.), which begins at a cross cut in the concrete sea wall on the easterly side of Limon Bay and on the center line of Eleventh Street, Colon, produced westerly. This point is marked "D" on the map designated exhibit "C." Beginning at mean low water mark on Limon Bay on the above described line the boundary runs northwesterly along said line to a point in Limon Bay marked "E" on the map, and located three hundred and thirty (330) meters east of the center line of the Panama Canal; thence turning to the right and running in a northerly direction the line runs parallel with the above mentioned center line and at a distance of three hundred and thirty (330) meters easterly therefrom until it meets an imaginary straight line drawn through the lighthouse on Toro Point having a bearing of south seventy-eight degrees and thirty minutes and thirty seconds east (S. $78^{\circ} 30' 30''$ E.), this intersection point being marked "F" on the map; thence turning to the right and running along the above-mentioned line south seventy-eight degrees, thirty minutes and thirty seconds east (S. $78^{\circ} 30' 30''$ E.) to a point on the boundary of the above-mentioned site for the United States battery; thence turning to the right and running along the said boundary line of said site to the mean low water line of Limon Bay; thence turning to the right and running along said water line in a generally southerly direction to the point of beginning at the foot of Eleventh Street.

All bearings in this description and on the plan mentioned above are referred to true meridian (Panama-Colon Datum).

The foregoing description of the City of Colon and Colon Harbor conform to the accompanying blue print marked exhibit "C."

VII

It is agreed that the Republic of Panama shall have an easement over and through the waters of the Canal Zone in and about Limon and Manzanillo bays to the end that vessels trading with the City of Colon may have access to and exit from the harbor of Colon, subject to the police laws and quarantine and sanitary rules and regulations of the United States and of the Canal Zone established for said waters.

The United States also agrees that small vessels may land at the east wall which extends along the shore to the south of the foot of Ninth Street and recently constructed by the Panama Railroad Company in the harbor of Colon free of any wharfage or landing charges that might otherwise accrue to the said company under the terms of its concessions from the Government of Colombia; and the United States further agrees that it will construct and maintain a landing pier in a small cove on the southerly side of Manzanillo Island in the north-westerly portion of the arm of the sea known as Boca Chica (sometimes called Folks River), to be used as a shelter harbor for small coasting boats of the Republic of Panama, without any wharfage or other landing charges.

VIII

Inasmuch as the highway known as the "Sabanas Road" will come entirely within the bounds of the City of Panama under this agreement the authorities of the Canal Zone are hereby relieved of the duty to repair and maintain such road, or any part of it, and the same shall be done henceforth by the authorities of the Republic at their cost and expense.

IX

It is agreed that the Republic of Panama will not construct nor allow the construction of any railway across the Sabanas or other territory hereby transferred to that Republic without a mutually satisfactory agreement having been previously arrived at between the two governments; and this shall be without prejudice to any right the United States may have to object to such railway projection under any of the provisions of the Canal Treaty of November 18, 1903.

X

The contracting parties hereby agree that this convention shall not diminish, exhaust, or alter any rights acquired by them heretofore in conformity with the Canal Treaty of November 18, 1903; and it is further expressly agreed that the United States, in the exercise of the rights granted to it under Articles II and III of the said Canal Treaty and subject to Article VI of said treaty, may enter upon and use, occupy, and control the whole or any portion of the Sabanas land, or other territory hereby transferred to the Republic of Panama, as the same may be necessary, or convenient, for the construction, maintenance, operation,

sanitation, or protection of the Canal or of any auxiliary canals, or other works necessary and convenient for the construction, maintenance, operation, sanitation, or protection of said enterprise.

XI

This agreement shall not be construed to modify the rights of the authorities of the Canal Zone to employ citizens of the Republic of Panama residing in the territory of the Republic as provided in section V of the above-mentioned agreement of June 15, 1904, and for which purpose the Government of the Republic granted the permission required by paragraph 2 of Article 7 of the Panamanian Constitution.

XII

The civil and criminal cases pending in the courts of the Canal Zone and the Republic of Panama at the time of the execution of this convention shall not be affected hereby but the same shall be proceeded with to final judgment and disposed of in the courts where they are now pending as though this agreement had not been entered into.

XIII

The exhibits accompanying this agreement are signed by the representatives of the respective governments for identification. This convention, when signed by the plenipotentiaries of the high contracting parties, will be ratified by the two governments in conformity with their respective constitutional laws, and the ratifications shall be exchanged at Panama at the earliest date possible.

In faith whereof the respective plenipotentiaries have signed the present convention in duplicate and have hereunto affixed their respective seals.

Done at the City of Panama, the second day of September, in the year of our Lord, nineteen hundred and fourteen.

[SEAL.]

[SEAL.]

WILLIAM JENNINGS PRICE,
E. T. LEFÉVRE.

OFFICIAL DOCUMENTS

NOTES OF AUSTRIA, FRANCE AND PRUSSIA TO THE UNITED STATES
REGARDING THE TRENT AFFAIR, 1861¹

Mr. Thouvenel to Mr. Mercier

PARIS, December 3, 1861.

Sir:

The arrest of Messrs. Mason and Slidell on board the English packet *Trent* by an American cruiser has caused, in France, if not the same feeling as in England, at any rate the utmost astonishment and no little sensation. Public opinion immediately concerned itself with the legality and the consequences of such an act, and not for an instant has there been any doubt as to the impression made upon public opinion. The affair seemed to be so out of harmony with the ordinary rules of international law that the public mind has been pleased to lay the whole responsibility at the door of the commanding officer of the *San Jacinto*. We are not in a position to know whether this supposition is correct, and the Government of the Emperor has therefore been obliged to examine the question raised by the removal of the two passengers from the *Trent*. The desire to aid in preventing a conflict, which is perhaps imminent, between two Powers, for both of whom it entertains the same friendly sentiments, and the duty to maintain certain principles essential to the security of neutrals, in order to protect from violation the rights of its own flag, have convinced it, after careful reflection, that it could not remain wholly silent under these circumstances.

If the Washington Cabinet were, to our great regret, disposed to approve the conduct of the commanding officer of the *San Jacinto*, it would do so by considering Messrs. Mason and Slidell as enemies or by holding them to be merely rebels. In either case, it would be most unfortunately forgetful of principles upon which we had always found the United States in accord with us.

On what grounds, in the first instance, could the American cruiser have arrested Messrs. Mason and Slidell? In treaties between the two

¹ Printed in Bernard, *The Neutrality of Great Britain during the American Civil War*, pp. 196-200. The Austrian and French notes have been translated from the French by George D. Gregory, of Washington, D. C.

countries, the United States has joined with us in recognizing that the freedom of the flag extends to persons on board a vessel, even though they be enemies of one of the two parties, unless they are actually in the military service of the enemy. Messrs. Mason and Slidell were, therefore, by virtue of this principle, which we have never had any difficulty in having inserted in our treaties of amity and commerce, absolutely free, under the neutral flag of England. It surely will not be contended that they might be considered contraband of war. It is true that it has not yet been definitely determined what constitutes contraband of war, and that all Powers have not set the same limits in this respect. However, in so far as individuals are concerned, the special provisions to be found in treaties relating to military persons define those who may be seized by belligerents. Now, it is not necessary to show that Messrs. Mason and Slidell could not be considered as belonging to that category. Hence there would remain only one pretext that could be urged in explanation of their capture, namely, that they were bearers of despatches of the enemy. In this connection it is not out of place to recall a circumstance which dominates this whole case and which renders the conduct of the American cruiser unjustifiable. The *Trent* was not bound for a point belonging to either of the belligerents. It was conveying its cargo and passengers to a neutral country, and it had embarked them in a neutral port. If it were admissible that, under such conditions, a neutral flag did not completely cover the persons and cargo on board, its immunity would be merely an empty word. The commerce and navigation of third Powers would constantly have to suffer for their innocent or even indirect relations with one or the other of the belligerents. The latter would consider not only that they had the right to require complete impartiality of a neutral, to forbid his taking part in hostile acts; but they would likewise hamper his freedom of commerce and of navigation with restrictions, whose legality modern international law has refused to admit. In a word, there would be a return to vexatious practices, against which in times past no Power has more loudly protested than the United States.

If the Washington Cabinet were inclined to look upon the two arrested individuals merely as rebels, whom it might rightfully seize at all times, even this change of ground could not justify the conduct of the commanding officer of the *San Jacinto*. Such a stand would involve disregard of the principle that a vessel is part of the territory of the nation whose flag it flies and violation of the immunity, as a result of which a

foreign sovereign may not exercise his jurisdiction thereon. There is no need to recall the energy with which the Government of the United States has on all former occasions defended this immunity and the right of asylum, which is its consequence.

Not wishing to enter into a more exhaustive discussion of the questions raised by the capture of Messrs. Mason and Slidell, I have, I believe, said enough to show that the Washington Cabinet cannot, without infringing principles which it is to the interest of all neutral Powers to have respected, or without appearing to act contrary to its own conduct up to the present time, approve the action of the commanding officer of the *San Jacinto*. Such being the case, there should not, in our opinion, be any hesitation on the part of the Washington Cabinet in determining the course to follow. Lord Lyons is already instructed to present the demands for satisfaction, which the English Government is obliged to formulate—namely, the immediate release of the individuals taken from the *Trent* and explanations disavowing the act in question as an offence to the British flag.

The Federal Government will be inspired by a just and lofty sentiment in complying with these demands. It would be vain to seek for any object or purpose in risking a break with Great Britain by adopting a different attitude. As for us, who would see in such a course a deplorable complication in all respects of the difficulties, with which the Washington Cabinet already has to struggle, and a precedent calculated seriously to disquiet all the Powers remaining outside of the present dispute, we consider it, on our part, an act of loyal friendship to the Washington Government, in the present circumstances, not to leave it in ignorance of our point of view. I request you, therefore, to seize the first opportunity to discuss the matter frankly with Mr. Seward, and, if he so requests, to deliver to him a copy of this despatch.

Receive, etc.

(Signed) THOUVENEL.

M. MERCIER.

Count Bernstorff to Baron Gerolt

BERLIN, December 25, 1861.

M. le Baron:

The maritime operations undertaken by President Lincoln against the Southern seceding States could not, from their very commencement, but fill the King's Government with apprehensions lest they should

result in possible prejudice to the legitimate interests of neutral Powers.

These apprehensions have unfortunately proved fully justified by the forcible seizure on board the neutral mail-packet the *Trent*, and the abduction therefrom, of Messrs. Slidell and Mason by the Commander of the United States' man-of-war the *San Jacinto*.

This occurrence, as you can well imagine, has produced in England and throughout Europe the most profound sensation, and thrown not Cabinets only, but also public opinion, into a state of the most excited expectation. For, although at present it is England only which is immediately concerned in the matter, yet, on the other hand, it is one of the most important and universally recognized rights of the neutral flag which has been called into question.

I need not here enter into a discussion of the legal side of the question. Public opinion in Europe has, with singular unanimity, pronounced in the most positive manner for the injured party. As far as we are concerned, we have hitherto abstained from expressing ourselves to you upon the subject, because in the absence of any reliable information we were in doubt as to whether the Captain of the *San Jacinto*, in the course taken by him, had been acting under orders from his Government or not. Even now we prefer to assume that the latter was the case. Should the former supposition, however, turn out to be the correct one, we should consider ourselves under the necessity of attributing greater importance to the occurrence, and to our great regret we should find ourselves constrained to see in it not an isolated fact but a public menace offered to the existing rights of all neutrals.

We have as yet no certain information as to the demands made by England on the American Cabinet, upon the acceptance of which the maintenance of peace appears to depend. As far, however, as our information reaches on the subject, we are convinced that no conditions have been put forward by the British Government which could justly offend President Lincoln's sense of honor.

His Majesty the King, filled with the most ardent wishes for the welfare of the United States of North America, has commanded me to advocate the cause of peace with President Lincoln through your instrumentality, to the utmost of my power. We should reckon ourselves fortunate if we could in this wise succeed in facilitating the peaceful solution of a conflict from which the greatest dangers might arise. It is possible, however, that the President has already taken his decision and

announced it. Whatever that decision may be, the King's Government, when they reflect upon the uninterrupted relations of friendship and amity which have existed between Prussia and the United States ever since the latter were founded, will derive satisfaction from the thought of having laid with the most unreserved candor their views of this occurrence before the Cabinet of Washington and expressed the wishes which they entertain in connection with it.

You will read this despatch without delay to the Secretary of State for Foreign Affairs, and, should he desire it, you will give him a copy of it. I shall await your report upon the instructions contained in this despatch, and I avail, etc.

(Signed) BERNSTORFF.

Count Rechberg to M. de Hulsemann

(Confidential)

VIENNA, December 18, 1861.

The difference that has arisen between the Government of the United States and that of Great Britain as a result of the arrest of Messrs. Slidell and Mason, by the captain of the American war-ship *San Jacinto*, on board the English packet *Trent* has not failed to engage the serious attention of the Imperial Cabinet.

The greater the importance that we attach to the maintenance of friendly relations between the United States and England, the more we have had to regret an incident which has added to a situation already bristling with difficulties so serious a complication.

It is not our intention to enter into an examination of the question of law, and yet we cannot disregard the fact that according to the concepts of international law which have been adopted by all Powers and which the American Government itself has frequently followed as rules of conduct, England could scarcely refrain in the present case from protesting against the offense committed against its flag and from asking for just reparation. It seems to us, moreover, that the demands formulated to this end by the Cabinet of St. James contain nothing to offend the Washington Cabinet, and that the latter will find it possible to perform an equitable and reasonable act without the slightest loss of dignity.

By taking counsel of the rules governing international relations, as well as of considerations of an enlightened policy, rather than by seeking

guidance from manifestations caused by an over-excitement of national feeling, the Government of the United States will, we are pleased to hope, consider the matter with the calm mind that the gravity of the case requires and will see fit to decide upon a course which, by keeping unbroken the relations between two great States, for both of which Austria entertains an equal friendship, will be calculated to prevent the serious disturbances which the eventuality of a war could not fail to bring on, both with respect to each of the contending parties and with respect to the affairs of the world at large.

Kindly bring the foregoing reflections to the attention of Mr. Seward and inform us how the Secretary receives your communication.

Receive, etc.

(Signed) RECHBERG.

NOTES EXCHANGED BETWEEN GREAT BRITAIN AND CHILE RESPECTING
THE SINKING OF THE GERMAN CRUISER "DRESDEN" IN CHILEAN
TERRITORIAL WATERS¹

No. 1

The Chilean Minister to Sir Edward Grey

[Translation]

CHILEAN LEGATION,
London, March 26, 1915.

Sir:

In compliance with instructions from my Government, I have the honor to inform your Excellency of the facts which led to the sinking of the German cruiser *Dresden* in Chilean territorial waters, as they appear to be established by the information in the possession of the Chilean Government.

The cruiser cast anchor on the 9th March in Cumberland Bay, in the Island of Mas-a-Tierra, belonging to the Juan Fernandez group, 500 metres from the shore, and her commander asked the Maritime Governor of the port for permission to remain there for eight days for the purpose

¹ British Parliamentary Papers, Miscellaneous No. 9 (1915). [Cd. 7859.]

of repairing her engines, which were, he said, out of order. The Maritime Governor refused to grant the request, as he considered it unfounded, and ordered the captain to leave the bay within twenty-four hours, threatening to intern the cruiser if her stay were prolonged beyond that period. Upon the expiry of the time stated the Maritime Governor proceeded to notify the captain of the *Dresden* that he had incurred the penalty imposed, and he immediately reported the situation which had arisen to the Governor of the Republic. Meanwhile, on the 14th March, a British naval squadron, composed of the cruisers *Kent* and *Glasgow* and the armed transport *Orama*, arrived at Cumberland Bay and immediately opened fire upon the *Dresden* while she lay at anchor. The Maritime Governor, who was making his way towards the *Glasgow* in order to carry out the usual obligations of courtesy, was compelled to return to land.

The *Dresden* hoisted a flag of truce, and despatched one of her officers to inform the *Glasgow* that she was in neutral waters, a circumstance disregarded by the British naval squadron, which summoned the *Dresden* to surrender, warning her that if she refused she would be destroyed. The captain of the *Dresden* then gave orders to blow up the powder magazine and sink the ship.

The act of hostility committed in Chilean territorial waters by the British naval squadron has painfully surprised my Government.

The internment of the *Dresden* had been notified to her captain by the Maritime Governor of Juan Fernandez, and the Government of the Republic, having been informed of what had occurred, would have proceeded to the subsequent steps had it not been for the intervention of the British naval squadron. Having regard to the geographical position of the Islands of Juan Fernandez and to the difficulty of communication with the mainland, the only authority able to act in the matter did everything possible from the outset, and the internment of the *Dresden* was as effective and complete as the circumstances would permit when she was attacked by the British naval squadron. Even supposing that the British force feared that the *Dresden* intended to escape and to ignore the measures taken by the Maritime Governor of Juan Fernandez, and that this apprehension was adduced as the reason which determined its action, it should still be observed that the close watch which the British naval squadron could itself exercise precluded the possibility of the attempt. Moreover, no such eventuality was contemplated by the British squadron which, as I have said, did not give the Maritime Governor of

Mas-a-Tierra the opportunity of explaining to the naval officer in command of the island the state of the *Dresden* in Cumberland Bay. The officer in command of the squadron acted *a priori* without pausing to consider that his action constituted a serious offence against the sovereignty of the country in whose territorial waters he was at the time. The traditions of the British Navy are such that I feel convinced that if the officer who commanded the British squadron had received the Maritime Governor, who was going on board his ship in the fulfilment of his duty, and had been informed of the state of the interned vessel, he would not have opened fire upon her and would not have brought about the situation which now constrains my Government, in defence of their sovereign rights, to formulate the most energetic protest to His Britannic Majesty's Government.

Your Excellency will not be surprised that the attitude of the naval squadron should have aroused such deep feeling in Chile if you bear in mind the fact that the British warships composing it had received, shortly before and upon repeated occasions, convincing proofs of the cordial friendship which unites us to Great Britain, and which finds its clearest and strongest expression in our respective navies. They had been supplied in the ports of the republic with everything which it was permissible for us to furnish consistent with our neutrality in the present European conflict. Nothing, therefore, could be a more painful surprise to us than to see our exceedingly cordial and friendly attitude repaid by an act which bears unfortunately all the evidences of contempt for our sovereign rights, although it is probable that nothing was further from the minds of those by whom it was unthinkingly committed.

Nor will your Excellency be astonished that my Government should show themselves to be very jealous of the rights and prerogatives inherent in the exercise of sovereignty. Nations which lack powerful material means of making their rights respected have no other guarantee and protection for their life and prosperity than the clear and perfect understanding, and the exact and scrupulous fulfilment of the obligations incumbent upon them towards other nations, and the right to demand that other nations shall equally observe their duties towards them. Few nations have given more convincing proofs than Great Britain of their desire to comply with international obligations and to require compliance from others, and few have shown more eloquently their respect for the rights and prerogatives both of great and small nations. These facts convince my Government that His Britannic Majesty's Govern-

ment will give them satisfaction for the act committed by the British naval forces of a character to correspond with the frankly cordial relations existing between them. Nothing could be more deeply deplored by the Chilean Government than that the traditional bonds of friendship uniting the two peoples, which my Government value so highly, and upon which they base so many hopes of new and mutual benefits, should fail to derive on this occasion additional strength from the test to which circumstances have subjected them.

I have, etc.,

AGUSTIN EDWARDS.

No. 2

Sir Edward Grey to the Chilean Minister

FOREIGN OFFICE, *March 30, 1915.*

Sir:

His Majesty's Government, after receiving the communication from the Chilean Government of the 26th March, deeply regret that any misunderstanding should have arisen which should be a cause of complaint to the Chilean Government; and, on the facts as stated in the communication made to them, they are prepared to offer a full and ample apology to the Chilean Government.

His Majesty's Government, before receiving the communication from the Chilean Government, could only conjecture the actual facts at the time when the *Dresden* was discovered by the British squadron; and even now they are not in possession of a full account of his action by the captain of the *Glasgow*. Such information as they have points to the fact that the *Dresden* had not accepted internment, and still had her colors flying and her guns trained. If this was so, and if there were no means available on the spot and at the moment for enforcing the decision of the Chilean authorities to intern the *Dresden*, she might obviously, had not the British ships taken action, have escaped again to attack British commerce. It is believed that the island where the *Dresden* had taken refuge is not connected with the mainland by cable. In these circumstances, if the *Dresden* still had her colors flying and her guns trained, the captain of the *Glasgow* probably assumed, especially in view of the past action of the *Dresden*, that she was defying the Chilean authorities and abusing Chilean neutrality, and was only awaiting a favorable opportunity to sally out and attack British commerce again.

If these really were the circumstances, His Majesty's Government cannot but feel that they explain the action taken by the captain of the British ship; but, in view of the length of time that it may take to clear up all the circumstances and of the communication that the Chilean Government have made of the view that they take from the information they have of the circumstances, His Majesty's Government do not wish to qualify the apology that they now present to the Chilean Government.

I have, etc.,

E. GREY.

EXCHANGE OF NOTES BETWEEN THE GOVERNMENT OF GREAT BRITAIN
AND THE GOVERNMENT OF THE FRENCH REPUBLIC RESPECTING THE
TRADE IN ARMS AND AMMUNITION AT MUSCAT ¹

London, February 4, 1914

No. 1

M. Cambon to Sir Edward Grey

[Translation]

FRENCH EMBASSY,

London, February 4, 1914.

Sir,

Your Excellency has repeatedly pointed out to me the serious inconveniences resulting from the organization of the traffic in arms and munitions of war in the Sultanate of Muscat, adjoining His Majesty's Indian Empire.

My Government, desirous of strengthening the good relations which so happily exist between France and Great Britain, have wished to give fresh proof of the feelings which inspire them, and have instructed me to declare to your Excellency that they renounce their claims, in favor of their nationals, to the benefit of the privileges and immunities conferred on these latter by the Franco-Muscat Treaty of the 17th November, 1844, in cases where these privileges and immunities would hinder the application of regulations and laws intended to prevent contraband traffic in arms and munitions of war in the Sultanate of Muscat.

Consequent upon this decision, the French consul at Muscat will receive immediately the necessary instructions to inform the Sultan

¹ Great Britain, Treaty Series, 1914, No. 9.

that the French Government cease to oppose the application to their nationals of the Muscat edict of the 4th June, 1912, which was put into force on the 12th September following, and which dealt with the trade in arms and munitions of war.

I propose further that our two Governments should concert together with regard to any modification or amendment which the Sultan of Muscat may wish to make in the regulations referred to above, and I can assure your Excellency that, under these conditions, the Government of the Republic, after having examined such modifications or amendments and ascertained that they deal only with the trade in arms and munitions of war in the Sultanate, will not oppose their application to their nationals in Muscat.

It is to be understood that French nationals in Muscat will be placed on the same footing as subjects of His Majesty the King as regards the trade in arms and munitions of war.

Your Excellency knows how strongly public opinion in France is opposed to the renunciation of any rights or immunities conferred on French nationals abroad by treaties and by tradition; the Government of the Republic have disregarded this opposition, because they have wished to give Great Britain a proof of their firm friendship, and also because they have become convinced of the dangers which would be presented by the organization of contraband of war in regions adjoining the distant possessions of the European Powers. It is possible that the illicit traffic in arms and munitions of war may find it advantageous to establish itself in regions adjoining French colonies or protectorates, and my Government do not doubt that the British Government will, in similar circumstances, lend their aid for the suppression of this traffic. I should be glad if your Excellency would be so good as to give me this assurance.

Please receive, &c.

PAUL CAMBON.

No. 2

Sir Edward Grey to M. Cambon

FOREIGN OFFICE, *February 4, 1914.*

Your Excellency,

I have the honor to acknowledge the receipt of your Excellency's note of to-day's date stating that the French Government, in view of

the relations of cordial friendship at present happily existing between Great Britain and France, renounce the right of invoking, on behalf of French citizens and protected persons, the privileges conferred on these persons by the Treaty of 1844 between France and Muscat, in so far as such privileges and immunities are opposed to the regulations and laws for the prevention of the contraband trade in arms and ammunition in the dominions of the Imaum of Muscat.

I note that, in pursuance of this decision, the French consul at Muscat will immediately receive the necessary instructions to declare to the Sultan that the French Government will no longer oppose the application to French nationals of the Sultan's edict of the 4th June, 1912, respecting the trade in arms and ammunition.

I further have the honor to inform your Excellency that His Majesty's Government agree to the proposal that the two Governments shall concert together with regard to any modification or amendment which the Sultan of Muscat may desire to introduce into the above-mentioned regulations in order that the French Government, having satisfied themselves by examination that such modifications or amendments relate solely to the trade in arms and ammunition in the Sultanate, may give their consent to the application of such modifications or amendments to their nationals at Muscat. It is of course understood that His Majesty's Government will use their influence with the Sultan of Muscat to ensure that French nationals in the Sultanate will, as regards the trade in arms and ammunition, receive in all respects the same treatment as British subjects and protected persons.

His Majesty's Government appreciate very highly the sentiments which have animated the French Government in their consideration of the question of the trade in arms and ammunition at Muscat, and rendered possible the understanding defined in this exchange of notes. They fully agree with the views held by the French Government as to the dangers which may result from the organization of a contraband trade in war matériel in the neighborhood of distant possessions of European Powers, and I am happy to be able to assure your Excellency that, in the event of such an illicit trade being established in the neighborhood of any of the French colonies or protectorates, His Majesty's Government will be prepared to assist, in so far as they may be in a position to do so, in the suppression of the traffic.

I have, &c.

E. GREY.

No. 3

Sir Edward Grey to Sir F. Bertie

FOREIGN OFFICE, *February 4, 1914.*

Sir,

After I had exchanged with the French Ambassador to-day the notes about Muscat he made verbally the following declaration to me:

TRANSLATION

"The French Government will not decline to examine any new regulation dealing with the arms trade at Muscat, even though such regulation may involve customs measures in territorial waters, on the express condition that the extraterritorial rights of French citizens at Muscat and the jurisdiction of French consuls shall be respected. The French Government could not concur in a procedure involving the right of search."

On this I observed that the rights of the Treaty of 1844 would be respected, and were applicable on sea as on land.

I am, &c.

E. GREY.

MEMORANDUM OF THE GERMAN GOVERNMENT IN REGARD TO INCIDENTS ALLEGED TO HAVE ATTENDED THE DESTRUCTION OF A GERMAN SUBMARINE AND ITS CREW BY THE BRITISH AUXILIARY CRUISER "BARALONG" ON AUGUST 19, 1915, AND REPLY OF THE BRITISH GOVERNMENT THERETO¹

No. 1

Mr. Page, United States Ambassador in London, to Sir Edward Grey

The American Ambassador presents his compliments to His Majesty's Secretary of State for Foreign Affairs, and has the honor to transmit herewith a copy of a memorandum delivered by the German Government to the Ambassador at Berlin, from whom Mr. Page has received it direct, relating to the alleged destruction off the coast of Ireland on the 19th August last of a German submarine and its crew by a vessel described as His Britannic Majesty's auxiliary cruiser *Baralong*.

¹ British Parliamentary Papers, Miscellaneous No. 1 (1916). [Cd. 8144.]

Mr. Page has received explicit instructions by telegraph from his Government to transmit this document without comment to Sir Edward Grey.

AMERICAN EMBASSY,
London, December 6, 1915.

Enclosure in No. 1

[Translation]

Memorandum from the German Government concerning the Murder of the Crew of a German Submarine by the Commander of the British Auxiliary Cruiser Baralong

Before the public notaries, Mr. E. Ansley, in the county of Hancock in the State of Mississippi, and Charles J. Denechaud, in the municipality of Orleans in the State of Louisiana, on the 5th and 8th October, 1915, six citizens of the United States of America made the annexed sworn depositions² concerning the murder of the crew of a German submarine by the commander of the British auxiliary cruiser *Baralong*. (Annexes 1 to 3.)

The names of these witnesses are:

1. J. M. Garrett, of Kiln, in the county of Hancock, Mississippi.
2. Charles D. Hightower, of Crystal City, Texas.
3. Bud Emerson Palen, of Detroit, Michigan.
4. Edward Clark, of Detroit, Michigan.
5. R. H. Cosby, of Crystal City, Texas.
6. James J. Curran, of Chicago, Illinois.

The ages of the witnesses are: Clark and Cosby, 21 years; Garrett and Hightower, 22; Palen, 27; Curran, 32. According to enquiries made on the spot, all enjoy a good reputation; Curran was for a considerable time employed as commercial traveller in various large American business houses.

According to the unanimous statements of these witnesses, the occurrence took place as follows: In August, 1915, the British steamer

²Depositions not printed in this SUPPLEMENT. The statements in them are summarized in the German memorandum.—Ed.

Nicosian was on her way from New Orleans to Avonmouth. She carried about 350 mules for war purposes, thus being laden with contraband. The witnesses were shipped as muleteers and superintendents. On the 19th August, about 70 nautical miles south of Queenstown (Ireland), the steamer was stopped by a German submarine and fired on, after the whole crew, including the witnesses, had first left the ship in the life-boats.

When the witnesses were in the life-boats outside the line of fire from the submarine, a steamer which had been already noticed by the witnesses, Garrett, Hightower, Clark, and Curran, when still on board the *Nicosian*, approached the spot. This, as afterwards transpired, was the British auxiliary cruiser *Baralong*. As this steamer approached all the witnesses noticed clearly that she was flying the American flag at the stern and that she carried on her sides large shields with the American flag painted on them. As the steamer carried the distinguishing marks of a neutral ship and had shown signals, which according to the seafaring members of the crew of the *Nicosian* meant that she was willing to assist if desired, and as there was nothing in her outward appearance to indicate her warlike character, the crew in the life-boats presumed that she was merely concerned with their rescue.

While the submarine was firing at close range on the port side of the *Nicosian*, the unknown steamer came up behind the latter and steamed past on her starboard side. When she was a short distance ahead of the *Nicosian's* bow, she opened fire on the submarine at first, as all the witnesses, with the exception of Garrett, affirm, with small arms, and immediately afterwards with cannon, which had been hidden up to that time by screens, and were only visible when the latter were removed. The witness Curran also deposed that the American flag flying at the stern of the unknown ship was only lowered after the rifle fire. He repeated this statement in the enclosed affidavit made before the public notary, Robert Schwarz, at New York, on the 21st October, 1915. (Annex No. 4.)

As the submarine after being struck several times began to sink, the commander and a number of seamen sprang overboard, the seamen having first removed their clothes. Some of them (the number is given by the witnesses Garrett and Curran as five) succeeded in getting on board the *Nicosian*, while the remainder seized the ropes left hanging in the water when the *Nicosian's* life-boats were lowered. The men clinging to the ropes were killed partly by gun-fire from the *Baralong* and partly

by rifle fire from the crew, while the witnesses were boarding the *Baralong* from the life-boats or were already on her deck. With regard to this, the witness Curran also further testifies that the commander of the unknown ship ordered his men to line up against the rail and to shoot at the helpless German seamen in the water.

Next the commander of the *Baralong* steamed alongside the *Nicosian*, made fast to the latter, and then ordered some of his men to board the *Nicosian* and search for the German sailors who had taken refuge there. The witnesses Palen and Curran testify regarding this incident that the commander gave the definite order "to take no prisoners." Four German sailors were found on the *Nicosian*, in the engine-room and screw tunnel, and were killed.

The commander of the submarine, as the witnesses unanimously testify, succeeded in escaping to the bows of the *Nicosian*. He sprang into the water and swam round to the bow of the ship towards the *Baralong*. The English seamen on board the *Nicosian* immediately fired on him, although, in a manner visible to all, he raised his hands as a sign that he wished to surrender, and continued to fire after a shot had apparently struck him in the mouth. Eventually he was killed by a shot in the neck.

All the witnesses were then temporarily ordered back on board the *Nicosian*. There the witnesses Palen and Cosby each saw one body of a German sailor, while the witness Curran—who remained on board the steamer with members of the crew absolutely necessary to man her—saw all four bodies, which were thrown overboard in the afternoon.

The commander of the *Baralong* had the *Nicosian* towed for a few miles in the direction of Avonmouth, and then sent back to the *Nicosian* the remainder of the crew who were still on the *Baralong*; at the same time he sent a letter to the captain of the *Nicosian*, in which he requested the latter to impress on his crew, especially the American members of it, to say nothing about the matter, whether on their arrival at Liverpool or on their return to America. The letter, which the witness Curran himself has read, was signed "Captain William McBride, H. M. S. *Baralong*." That the unknown vessel was named the *Baralong* was discovered also by the witness Hightower from a steward of the steamer, when he (the witness) was on board this ship; while the witness Palen deposes that he, when he was leaving the ship, saw this name indistinctly painted on the bows.

The statements of the six witnesses are in substance corroborated by the 18 year-old witness, Larimore Holland, whose sworn statement before the public notary, Frank S. Carden, in the county of Hamilton, Tennessee, on the 12th October, 1915, is also annexed (Annex 5). The witness, who was a stoker on board the *Baralong*, was on board that ship when this unparalleled incident occurred.

According to his statement also, the *Baralong* hoisted the American flag, and, covered by the *Nicosian*, steamed towards the scene where, as soon as the submarine was visible, she opened fire on the latter and sunk her. He further states that about fifteen men of the submarine's crew sprang overboard as she sank and were killed by rifle and gun-fire from the *Baralong*, some while they were swimming in the water and others as they were trying to climb up the ropes of the *Nicosian*. If his statement differs in details from the statements of the other witnesses, this evidently is caused by the fact that he himself only witnessed some of the incidents, and that he apparently only knows by hearsay of other incidents, notably those which occurred on board the *Nicosian*.

By reason of the above evidence there can be no doubt that the commander of the British auxiliary cruiser *Baralong*, McBride, gave the crew under his command the order not to make prisoner certain helpless and unarmed German seamen, but to kill them in a cowardly manner; also that his crew obeyed the order, and thus shared the guilt for the murder.

The German Government inform the British Government of this terrible deed, and take it for granted that the latter, when they have examined the facts of the case and the annexed affidavits, will immediately take proceedings for murder against the commander of the auxiliary cruiser *Baralong* and the crew concerned in the murder, and will punish them according to the laws of war. They await in a very short time a statement from the British Government that they have instituted proceedings for the expiation of this shocking incident; afterwards they await information as to the result of the proceedings, which should be hastened as much as possible, in order that they may convince themselves that the deed has been punished by a sentence of corresponding severity. Should they be disappointed in this expectation, they would consider themselves obliged to take serious decisions as to retribution for the unpunished crime.

BERLIN, November 28, 1915.

No. 2

Sir Edward Grey to Mr. Page, United States Ambassador in London

FOREIGN OFFICE, *December 14, 1915.*

Your Excellency:

I have had the honor of receiving your communication of the 6th instant, covering a memorandum of the German Government in regard to incidents alleged to have attended the destruction of a German submarine and its crew by H. M. auxiliary cruiser *Baralong* on the 19th August last.

The German Government base on these alleged incidents a demand that the commanding officer and other responsible parties on board H. M. S. *Baralong* shall be brought to trial for murder and duly punished.

His Majesty's Government note with great satisfaction, though with some surprise, the anxiety now expressed by the German Government that the principles of civilized warfare should be vindicated, and that due punishment should be meted out to those who deliberately disregard them. It is true that the incident which has suddenly reminded the German Government that such principles exist is one in which the alleged criminals were British and not German. But His Majesty's Government do not for a moment suppose that it is the intention to restrict unduly the scope of any judicial investigation which it is thought proper to institute.

Now it is evident that to single out the case of the *Baralong* for particular examination would be the height of absurdity. Even were the allegations on which the German Government rely accepted as they stand (and His Majesty's Government do not so accept them), the charge against the commander and crew of the *Baralong* is negligible compared with the crimes which seem to have been deliberately committed by German officers, both on land and sea, against combatants and non-combatants.

Doubtless the German Government will urge that the very multitude of these allegations would so overload any tribunal engaged in their examination as utterly to defeat the ends of justice. If, for example, a whole army be charged with murder, arson, robbery, and outrage, it is plainly impossible to devote a separate enquiry to all the individuals who have taken a share in these crimes. These practical considerations cannot be ignored and His Majesty's Government admit their force. They would, therefore, be prepared, for the present, to confine any judicial

investigation to charges made against German and British officers at sea; and if even this restriction were thought insufficient, they would be content to call attention to three naval incidents which occurred during the same forty-eight hours in the course of which the *Baralong* sank the submarine and rescued the *Nicosian*.

The first incident relates to a German submarine which fired a torpedo into the *Arabic* and sank her. No warning was given to the merchant vessel; no efforts were made to save its unresisting crew; forty-seven non-combatants were ruthlessly sent to their death. It is understood that this act of barbarism, though in perfect harmony with the earlier policy of the German Government, was contrary to orders recently issued. This, however, if true, only increases the responsibility of the submarine commander; and His Majesty's Government have received no information indicating that the authorities have pursued in his case the course they recommend in the case of the crew of the *Baralong*, by trying him for murder.

The second incident occurred on the same day. A German destroyer found a British submarine stranded on the Danish coast. The submarine had not been pursued there by the destroyer; she was in neutral waters; she was incapable either of offence or defence. The destroyer opened fire upon her; and when her crew attempted to swim ashore the destroyer fired upon them also with no apparent object but to destroy a helpless enemy. There was here no excuse of hot blood; the crew of the British submarine had done nothing to rouse the fury of their opponents. They had not just murdered forty-seven innocent non-combatants. They were not taking possession of a German ship, or committing any act injurious to German interests. So far as His Majesty's Government know the facts, the officers and men of this destroyer committed a crime against humanity and the laws of war, which is at least as worthy of judicial enquiry as any other which has occurred during the course of recent naval operations.

The third incident occurred some forty-eight hours later. The steamer *Ruel* was attacked by a German submarine. The ship which had made no resistance began to sink, the crew took to their boats, and while endeavoring to save themselves were fired upon both with shrapnel and rifle fire. One man was killed, eight others (including the master) were severely wounded. The sworn testimony on which these statements are based shows no reason whatever which could justify this cold-blooded and cowardly outrage.

It seems to His Majesty's Government that these three incidents, almost simultaneous in point of time, and not differing greatly in point of character, might, with the case of the *Baralong*, be brought before some impartial court of investigation, say, for example, a tribunal composed of officers belonging to the United States navy. If this were agreed to, His Majesty's Government would do all in their power to further the enquiry, and to do their part in taking such further steps as justice and the findings of the court might seem to require.

His Majesty's Government do not think it necessary to make any reply to the suggestion that the British navy has been guilty of inhumanity. According to the latest figures available, the number of German sailors rescued from drowning, often in circumstances of great difficulty and peril, amounts to 1,150. The German navy can show no such record—perhaps through want of opportunity.

I have, etc.

E. GREY.

DECLARATION WITHDRAWING THE BRITISH RESERVATIONS IN RESPECT OF
ARTICLES 23, 27, AND 28 OF THE RED CROSS CONVENTION, 1906¹

BERNE, *July 7, 1914.*

THE undersigned, His Britannic Majesty's Envoy Extraordinary and Minister Plenipotentiary to the Swiss Confederation, duly authorized by his Britannic Majesty for that purpose, hereby declares that the reservations with respect to Articles 23, 27, and 28, under which the International Convention for the Amelioration of the Condition of the Wounded and Sick in Armies in the Field was signed on behalf of the United Kingdom of Great Britain and Ireland on the 6th July, 1906, and ratified by His Britannic Majesty, the said ratification being deposited at Berne on the 16th April, 1907, are hereby withdrawn.

In witness whereof the undersigned has signed the present declaration and affixed thereto the seal of his arms.

Done at Berne, this 7th day of July, 1914.

(L.S.) EVELYN GRANT DUFF.

¹ Great Britain, Treaty Series, 1916, No. 1.

BRITISH STATEMENT OF THE MEASURES ADOPTED TO INTERCEPT THE SEA-BORNE COMMERCE OF GERMANY ¹

1. The object of this memorandum is to give an account of the manner in which the sea power of the British Empire has been used during the present war for the purpose of intercepting Germany's imports and exports.

I. Belligerent Rights at Sea

2. The means by which a belligerent who possesses a fleet has, up to the time of the present war, interfered with the commerce of his enemy are three in number:

- (i) The capture of contraband of war on neutral ships.
- (ii) The capture of enemy property at sea.
- (iii) A blockade by which all access to the coast of the enemy is cut off.

3. The second of these powers has been cut down since the Napoleonic wars by the Declaration of Paris of 1856, under which enemy goods on a neutral ship, with the exception of contraband of war, were exempted from capture. Enemy goods which had been loaded on British or Allied ships before the present war were seized in large quantities immediately after its outbreak; but for obvious reasons such shipments ceased, for all practical purposes, after the 4th August, 1914, and this particular method of injuring the enemy may therefore, for the moment, be disregarded.

No blockade of Germany was declared until March, 1915, and therefore up to that date we had to rely exclusively on the right to capture contraband.

II. Contraband

4. By the established classification goods are divided into three classes:

- (a) Goods primarily used for warlike purposes.
- (b) Goods which may be equally used for either warlike or peaceful purposes.
- (c) Goods which are exclusively used for peaceful purposes.

5. Under the law of contraband, goods in the first class may be seized if they can be proved to be going to the enemy country; goods in the

¹ British Parliamentary Papers, Miscellaneous No. 2 (1916). [Cd. 8145.]

second class may be seized if they can be proved to be going to the enemy government or its armed forces; goods in the third class must be allowed to pass free. As to the articles which fall within any particular one of these classes, there has been no general agreement in the past, and the attempts of belligerents to enlarge the first class at the expense of the second, and the second at the expense of the third, have led to considerable friction with neutrals.

6. Under the rules of prize law, as laid down and administered by Lord Stowell, goods were not regarded as destined for an enemy country unless they were to be discharged in a port in that country; but the American prize courts in the Civil War found themselves compelled by the then existing conditions of commerce to apply and develop the doctrine of continuous voyage, under which goods which could be proved to be ultimately intended for an enemy country were not exempted from seizure on the ground that they were first to be discharged in an intervening neutral port. This doctrine, although hotly contested by many publicists, had never been challenged by the British Government, and was more or less recognized as having become part of international law.

7. When the present war broke out it was thought convenient, in order, among other things, to secure uniformity of procedure among all the Allied forces, to declare the principles of international law which the Allied Governments regarded as applicable to contraband and other matters. Accordingly, by the Orders in Council of the 20th August and the 22nd October, 1914, and the corresponding French decrees, the rules set forth in the Declaration of London were adopted by the French and British Governments with certain modifications. As to contraband, the lists of contraband and free goods in the Declaration were rejected, and the doctrine of continuous voyage was applied not only to absolute contraband, as the Declaration already provided, but also to conditional contraband, if such goods were consigned to order, or if the papers did not show the consignee of the goods, or if they showed a consignee in enemy territory.

8. The situation as regards German trade was as follows: Direct trade to German ports (save across the Baltic) had almost entirely ceased, and practically no ships were met with bound to German ports. The supplies that Germany desired to import from overseas were directed to neutral ports in Scandinavia, Holland, or (at first) Italy, and every effort was made to disguise their real destination. The power

which we had to deal with this situation in the circumstances then existing was:

- (i) We had the right to seize articles of absolute contraband if it could be proved that they were destined for the enemy country, although they were to be discharged in a neutral port.
- (ii) We had the right to seize articles of conditional contraband if it could be proved that they were destined for the enemy government or its armed forces, in the cases specified above, although they were to be discharged in a neutral port.

9. On the other hand, there was no power to seize articles of conditional contraband if they could not be shown to be destined for the enemy government or its armed forces, or non-contraband articles, even if they were on their way to a port in Germany, and there was no power to stop German exports.

10. That was the situation until the actions of the German Government led to the adoption of more extended powers of intercepting German commerce in March, 1915. The Allied Governments then decided to stop all goods which could be proved to be going to, or coming from, Germany. The state of things produced is in effect a blockade, adapted to the condition of modern war and commerce, the only difference in operation being that the goods seized are not necessarily confiscated. In these circumstances it will be convenient, in considering the treatment of German imports and exports, to omit any further reference to the nature of the commodities in question as, once their destination or origin is established, the power to stop them is complete. Our contraband rights, however, remain unaffected, though they, too, depend on the ability to prove enemy destination.

III. *German Exports*

11. In carrying out our blockade policy great importance was from the outset attached to the stoppage of the enemy's export trade, because it is clear that to the extent that his exports can be stopped, and his power to establish credits for himself in neutral countries curtailed, his imports from such neutral countries will more or less automatically diminish. The identification of articles of enemy origin is, thanks to the system of certificates of origin which has been established, a comparatively simple matter, and the degree to which the policy of stop-

ping German and Austrian oversea exports has been successful can best be judged by looking at the statistics of German and Austrian imports into America.

12. The normal imports into the United States of America from Germany and Austria, before the war, for the seven months March to September inclusive, are valued approximately and in round figures at 124,000,000 dollars (£24,800,000). From March to September inclusive, this year's imports into the United States of America from those countries were valued at approximately 22,000,000 dollars (£4,400,000). This sum includes the goods which were already in neutral ports in the way of shipment or in transit when the further measures adopted by the Allied Governments were announced in March, and also a considerable proportion of those which have been allowed to pass in the circumstances mentioned in paragraph 14. A certain amount is also to be accounted for by goods received from Germany and Austria by parcel post, which it was not originally possible to stop effectively. Steps have now been taken to close this channel to enemy exports. The latest returns available, those for September, show that over 92 per cent. of the German exports to the United States of America have been stopped.

13. The above figures allow of but one conclusion: the oversea exports of Germany and Austria are very near extinction. It is of special interest to note that in the main these exports have not been merely diverted to the neutral countries adjacent to Germany. The imports which those countries have received from Germany have not in fact exceeded the normal quantities of previous years.

14. The object of the policy being to injure the enemy, the Allied Governments have in certain cases permitted the export of goods which had been ordered before the 1st March, and had been either paid for prior to that date or ordered before that date on terms which rendered the neutral purchaser liable to pay whether the goods reached him or not. It is clear that in these cases no harm would be done to the enemy, or pressure put upon him, by not allowing the goods to pass. On the contrary, he would, if that were done, both receive his price and retain the goods and their possible use. The total value of the goods with which the Allied Governments have undertaken not to interfere in such cases up to the end of 1915 is approximately £3,000,000. If the goods allowed to pass under this arrangement were deducted from the total enemy exports to the United States of America, it would be

seen that the amount of German exports which serve to increase the resources of the enemy is almost negligible.

IV. *German Imports*

15. As regards German imports, however, the problem is much more complicated. Its central difficulty is that of distinguishing between goods with an enemy destination from those with a genuine neutral destination. A belligerent who makes use of his naval power to intercept the commerce of his enemy has to justify his action in each particular case before a prize court, which is bound by international law and not by the ordinary law of the country in which it sits. It is not sufficient for him to stop a neutral vessel and remove from her such articles as he may believe to be intended for his enemy; it is necessary subsequently to demonstrate in a court of law that the destination of the goods was such as to justify the belligerent in seizing them. If this is not proved, the goods will be released, and damages may be awarded against the captor. It must also be remembered that, in order to justify the seizure of a particular consignment, it is necessary to satisfy the prize court of the enemy destination of that consignment, and evidence of a general nature, if unaccompanied by proofs directly bearing on a particular case, is not enough. All this applies as much to goods seized as contraband as it does to those seized for breach of blockade.

16. In earlier wars the production of the necessary proof was a comparatively simple matter. Owing to the difficulties of inland transport before the introduction of railways, goods for the enemy country were usually carried to ports in that country and the ship's papers showed their destination. When, therefore, the ship had been captured, the papers found on board were generally sufficient to dispose of the case. In the old cases of contraband, the question at issue was usually not where the goods were in fact going to, but whether their nature was such as to make them liable to condemnation in view of the destination shown on the ship's papers. Even in the American Civil War the difficulty of proving destination was usually not serious, because the neutral harbors through which the supply of goods for the Confederate States was carried on were in normal time ports of comparatively small importance, and it could be shown that in normal times there was no local market for goods of such quantities and character.

17. The case has been far different in the present war. The goods which Germany attempts to import are consigned to neutral ports, and it need hardly be said that the papers on board convey no suggestion as to their ultimate destination. The conditions of modern commerce offer almost infinite opportunities of concealing the real nature of a transaction, and every device which the ingenuity of the persons concerned, or their lawyers, could suggest has been employed to give to shipments intended for Germany the appearance of genuine transactions with a neutral country. The ports to which the goods are consigned, such as Rotterdam and Copenhagen, have in peace time an important trade, which increases the difficulty of distinguishing the articles ultimately intended to reach the enemy country from those which represent importation into the neutral country concerned for its own requirements. If action had to be taken solely on such information as might be gathered by the boarding officer on his visit to the ship, it would have been quite impossible to interfere to an appreciable extent with German imports, and the Allied Governments would therefore have been deprived of a recognized belligerent right.

18. In these circumstances, unless the Allied Governments were prepared to seize and place in the prize court the whole of the cargo of every ship which was on her way to a neutral country adjacent to Germany, and to face the consequences of such action, the only course open to them was to discover some test by which goods destined for the enemy could be distinguished from those which were intended for neutral consumption.

19. The first plan adopted for this purpose is to make use of every source of information available in order to discover the real destination of sea-borne goods, and to exercise to the full the right of stopping such goods as the information obtained showed to be suspect, while making a genuine and honest attempt to distinguish between *bona fide* neutral trade and trade which, although in appearance equally innocent, was in fact carried on with the enemy country.

20. For this purpose a considerable organization has been established in the Contraband Committee, which sits at the Foreign Office, and works in close touch with the Admiralty, Board of Trade, and War Trade Department. Nearly every ship on her way to Scandinavian or Dutch ports comes or is sent into a British port for examination, and every item of her cargo is immediately considered in the light of all the information which has been collected from the various sources open to

the government, and which, after nearly a year and a half of war, is very considerable. Any items of cargo as to which it appears that there is a reasonable ground for suspecting an enemy destination are placed in the prize court, while articles as to the destination of which there appears to be doubt are detained pending further investigation.

21. If, however, this were all that could be done, there is little doubt that it would be impossible to effect a complete cutting off of the enemy's supplies. For instance, there are many cases in which it would be difficult to establish in the prize court our right to stop goods, although they or their products, perhaps after passing through several hands, would in all probability ultimately reach the enemy. To indicate more plainly the nature of these difficulties would obviously be to assist the enemy and the neutral traders who desire to supply him; but the difficulties exist, and, in order to meet them, it has been necessary to adopt other means by which neutral may be more easily distinguished from enemy trade, and the blockade of Germany made more effective than it would be if we relied solely on the right to stop goods which could be proved to be intended for the enemy.

V. *Guarantees by Importers*

22. Importers in neutral countries adjacent to Germany have found that the exercise of our belligerent rights to some extent impedes the importation of articles which they genuinely need for the requirements of their own country, and consequently they have in many cases shown willingness to make agreements with this country which on the one hand secure their receiving the supplies which they need, while on the other guaranteeing to us that goods allowed to pass under the terms of the agreement will not reach the enemy. The neutral governments themselves have as a rule considered it inadvisable to make agreements on such points with His Majesty's Government; they have on the whole confined their action to prohibiting the export of certain articles which it was necessary for them to import from abroad. Inasmuch, however, as in most cases they reserved the right to grant exemptions from such prohibitions, and as trade between the Scandinavian countries themselves was usually excluded from the scope of such measures, the mere fact of the existence of such prohibitions could not be considered a sufficient safeguard that commodities entering the country would not ultimately reach Germany.

23. In some neutral countries, however, agreements have been made by representative associations of merchants, the basis of which is that the associations guarantee that articles consigned to or guaranteed by them, and their products, will not reach the enemy in any form, while His Majesty's Government undertake not to interfere with shipments consigned to the association, subject to their right to institute prize proceedings in exceptional cases where there is evidence that an attempt has been made to perpetrate a fraud upon the association, and to pass the goods ultimately through to Germany. The first of these agreements was made with the Netherlands Oversea Trust, and similar agreements, either general or dealing with particular commodities of special importance, such as rubber and cotton, have been made with bodies of merchants in Sweden, Norway, Denmark, and Switzerland. The details of these agreements it is impossible to give more fully, but the general principle is that the associations, before allowing goods to be consigned to them, require the would-be receivers to satisfy them, by undertakings backed by sufficient pecuniary penalties, that the goods will not leave the country, either in their original shape or after any process of manufacture, and notwithstanding any sales of which they may be the subject.

In some cases these agreements provide that the associations shall themselves be bound to detain or return goods believed by His Majesty's Government to be destined for the enemy; so that it does not follow that cargoes allowed to proceed to a neutral port will necessarily be delivered to the consignees.

24. The existence of such agreements is of great value in connection with the right of seizure, because the fact of articles not being consigned to or guaranteed by the association, or being consigned to it without the necessary consent, at once raises the presumption that they are destined for the enemy.

VI. *Agreements with Shipping Lines*

25. Delays caused by the elaborate exercise of the belligerent right of visit and search are very irksome to shipping; and many shipping lines who carry on regular services with Scandinavia and Holland have found it well worth their while to make agreements with His Majesty's Government under which they engage to meet our requirements with regard to goods carried by them, in return for an undertaking that their ships will be delayed for as short a time as possible for examination in

British ports. Several agreements of this kind have been made; the general principle of them is that His Majesty's Government obtain the right to require any goods carried by the line, if not discharged in the British port of examination, to be either returned to this country for prize court proceedings, or stored in the country of destination until the end of the war, or only handed to the consignees under stringent guarantees that they or their products will not reach the enemy. The companies obtain the necessary power to comply with these conditions by means of a special clause inserted in all their bills of lading, and the course selected by the British authorities is determined by the nature of the goods and the circumstances of the case. In addition to this, some of these companies make a practice, before accepting consignments of certain goods, of enquiring whether their carriage is likely to lead to difficulties, and of refusing to carry them in cases where it is intimated that such would be the case. The control which His Majesty's Government are in a position to exercise under these agreements over goods carried on the lines in question is of very great value.

VII. *Bunker Coal*

26. Much use has been made recently of the power which the British Government are in a position to exercise owing to their ability to refuse bunker coal to neutral ships in ports in the British Empire. Bunker coal is now only supplied to neutral vessels whose owners are willing to comply with certain conditions which ensure that no vessels owned, chartered, or controlled by them trade with any port in an enemy country, or carry any cargo which proceeds from, or is destined for, an enemy country. The number of owners who accept these conditions increases almost daily. The use of this weapon has already induced several shipping lines which before the war maintained regular services between Scandinavian and German Baltic ports to abandon their services.

VIII. *Agreements in respect of Particular Commodities*

27. Special agreements have been made in respect of particular articles the supply of which is mainly derived from the British Empire or over which the British Government are in a position to exercise control. The articles covered by such agreements, the object of which is to secure such control over the supply of these materials as will ensure that they

or their products will not reach the enemy, are rubber, copper, wool, hides, oil, tin, plumbago, and certain other metals.

IX. *Rationing*

28. Though the safeguards already described do much to stop entirely all trade to and from Germany, yet, in spite of all of them, goods may and do reach our enemies, and, on the other hand, considerable inconvenience is caused to genuinely neutral trade. It is to avoid both evils that His Majesty's Government have for months past advocated what is called rationing, as by far the soundest system both for neutrals and belligerents. It is an arrangement by which the import of any given article into a neutral country is limited to the amount of its true domestic requirements. The best way of carrying this arrangement into effect is probably by agreement with some body representing either one particular trade or the whole commerce of the country. Without such an agreement there is always a risk that, in spite of all precautions, the whole rationed amount of imports may be secured by traders who are really German agents. These imports might go straight on to Germany, and there would then be great practical difficulty in dealing with the next imports destined, it may be, for genuine neutral traders. If they were to be stopped, there would be great complaint of injustice to neutrals, and yet unless that be done the system would break down. Accordingly, agreements of this kind have been concluded in various countries, and His Majesty's Government are not without hope that they may be considerably extended in the future. Even so the security is not perfect. An importer may always let his own countrymen go short and re-export to Germany. The temptation to do so is great, and as our blockade forces prices up is increasing. But the amount that gets through in this way cannot be large, and the system is in its working so simple that it minimizes the delays and other inconveniences to neutral commerce inseparable from war. Of the details of these arrangements it is impossible to speak. But their principle appears to offer the most hopeful solution of the complicated problems arising from the necessity of exercising our blockade through neutral countries.

X. *Results.*

29. As to the results of the policy described in this memorandum the full facts are not available. But some things are clear. It has already

been shown that the export trade of Germany has been substantially destroyed. With regard to imports, it is believed that some of the most important, such as cotton, wool, and rubber, have for many months been excluded from Germany. Others, like fats and oils and dairy produce, can only be obtained there, if at all, at famine prices. All accounts, public and private, which reach His Majesty's Government agree in stating that there is considerable discontent amongst sections of the German population, and there appear to have been food riots in some of the larger towns. That our blockade prevents any commodities from reaching Germany is not, and under the geographical circumstances cannot be true. But it is already successful to a degree which good judges both here and in Germany thought absolutely impossible, and its efficiency is growing day by day. It is right to add that these results have been obtained without any serious friction with any neutral government. There are obvious objections to dwelling on the importance to us of the good will of neutral nations; but anyone who considers the geographical, military, and commercial situation of the various countries will certainly not underrate the value of this consideration. There is great danger when dealing with international questions in concentrating attention exclusively on one point in them, even if that point be as vital as is undoubtedly the blockade of Germany.

XI. Conclusion

30. To sum up, the policy which has been adopted in order to enforce the blockade of Germany may be described as follows:

- (i) German exports to oversea countries have been almost entirely stopped. Such exceptions as have been made are in cases where a refusal to allow the export of the goods would hurt the neutral concerned without inflicting any injury upon Germany.
- (ii) All shipments to neutral countries adjacent to Germany are carefully scrutinized with a view to the detection of a concealed enemy destination. Wherever there is reasonable ground for suspecting such destination, the goods are placed in the prize court. Doubtful consignments are detained until satisfactory guarantees are produced.
- (iii) Under agreements in force with bodies of representative merchants in several neutral countries adjacent to Germany, stringent guarantees are exacted from importers, and so far as possible all trade between the neutral country and Germany, whether arising overseas or in the neutral country itself, is restricted.

- (iv) By agreements with shipping lines and by a vigorous use of the power to refuse bunker coal, a large proportion of the neutral mercantile marine which carries on trade with Scandinavia and Holland has been induced to agree to conditions designed to prevent goods carried in these ships from reaching the enemy.
 - (v) Every effort is being made to introduce a system of rationing which will ensure that the neutral countries concerned only import such quantities of the articles specified as are normally imported for their own consumption.
-

ARRANGEMENT BETWEEN THE UNITED KINGDOM AND HONDURAS REFERRING TO ARBITRATION MATTERS RELATING TO THE MASICA INCIDENT ¹

Signed at Tegucigalpa, April 4, 1914

TERMS OF REFERENCE

Whereas on the 16th June, 1910, an affray took place in the village of La Masica, in the Department of Atlántida, Republic of Honduras, between a squad of soldiers of the Government of Honduras which at the moment of the affray was under the command of the Mayor de Plaza of that Department, Don Joaquín Medina Planas, and a party of three British West Indian subjects, named Alexander Thurston, Wilfred Robinson, and Joseph Holland, which affray resulted in the death of Alexander Thurston, the wounding of Wilfred Robinson, and the beating of Joseph Holland;

And whereas a court of enquiry opened at La Ceiba on the 29th August, 1910, made investigations into the circumstances attending the above-mentioned incident and pronounced a decision thereupon;

And whereas in view of the result of these investigations and the decision referred to, the Government of Honduras, basing themselves on the agreement concluded at Tegucigalpa on the 13th August, 1910,² between the Honduran Minister for Foreign Affairs, Don R. Rivera Retes, and his Britannic Majesty's Chargé d'Affaires, Mr. Godfrey Haggard, have refused to accept any responsibility in regard to the event mentioned;

And whereas the Government of Great Britain consider that the re-

¹ Great Britain, Treaty Series, 1914, No. 10.

² See Annex, p. 101.

sults of these investigations and the decision of the court give them good ground for claiming from the Government of Honduras a reasonable indemnity;

And whereas both governments, being desirous of removing as soon as possible this source of disagreement between them, have resolved to submit the above question to the arbitral decision of His Majesty the King of Spain;

Now therefore they have authorized duly and properly their representatives, namely:

The Government of His Britannic Majesty: Charles Alban Young, Esquire, Envoy Extraordinary and Minister Plenipotentiary of His Britannic Majesty to Honduras; and

The Government of Honduras: his Excellency Señor Dr. Don Mariano Vásquez, their Minister for Foreign Affairs, to conclude the following arrangement:

I

The question whether, under the principles established by international law, and taking into consideration the agreement of the 13th August, 1910, above referred to, any responsibility attaches to the Government of Honduras in respect of the affray and the injuries inflicted on the above-mentioned British subjects in the circumstances as disclosed before the said court of enquiry at La Ceiba, shall be submitted to the decision of His Majesty the King of Spain.

II

Within four months of the signature of this arrangement, the Government of His Britannic Majesty shall present to the Royal Arbitrator and to the Government of Honduras a memorial in support of their case. The presentation of the British memorial to the Government of Honduras shall be effected by its presentation to the Honduran Minister in Guatemala by His Britannic Majesty's Representative in Guatemala.

III

Within four months of the presentation of the British memorial to the Government of Honduras, that government shall present to the Royal Arbitrator and to the Government of His Britannic Majesty an answer. The presentation of the answer to the Government of His Britannic Majesty shall be effected by its presentation to His Britannic Majesty's

Representative in Guatemala by the Honduran Minister in Guatemala.

IV

Within four months of the presentation of the answer of Honduras, the Government of His Britannic Majesty may, if they think it necessary, present to the Royal Arbitrator and to the Government of Honduras a reply to the answer. Such reply shall be presented to the Government of Honduras in the same manner as the British memorial.

V

The memorial and the reply shall be in the English language, accompanied by a translation into Spanish. The answer shall be in Spanish, accompanied by a translation into English. These pleadings shall all be printed. They shall be accompanied by such documents and proofs as may be considered necessary by the government presenting them, but neither government shall be entitled to put in any further evidence as to the events which occurred on the 16th June, 1910, beyond that which was given before, or taken into consideration by, the above-mentioned court of enquiry at La Ceiba.

VI

In matters not provided for in the present arrangement, the proceedings shall be regulated by such of the provisions of the Convention for the Pacific Settlement of International Disputes signed at The Hague the 18th October, 1907, as the Royal Arbitrator may consider to be applicable.

VII

If the award of the Royal Arbitrator is in favor of Great Britain, the award shall specify the amount of the pecuniary indemnity to be paid by the Government of Honduras to the Government of His Britannic Majesty. Such indemnity shall be paid by the Government of Honduras within three months dating from the notification to them of the award of the Royal Arbitrator.

VIII

Each party shall bear its own expenses and a moiety of the common expenses of the arbitration.

In witness whereof the aforesaid representatives of the Governments of Great Britain and Honduras have signed in triplicate the present arrangement, and have affixed thereto their seals, in the city of Tegucigalpa, this fourth day of April, one thousand nine hundred and fourteen.

(L. S.) CHARLES ALBAN YOUNG,

(L. S.) MARIANO VÁSQUEZ.

ANNEX

AGREEMENT FOR THE ARRANGEMENT OF THE MASICA INCIDENT

I

The Government of Honduras engages within three days to remove from his post the Mayor de Plaza of the Department of Atlántida, Don Joaquín Medina, pending the course of the judicial inquiry. His trial is to be commenced with all the urgency which the case demands, and shall take place under the following conditions:

(a) As a guarantee of impartiality, the substitution of the present Judge of Letters of the Department of Atlántida will be proposed to the Supreme Court of Justice; the Licentiate Don Serapio Hernández y Hernández, who is acceptable to both parties, shall be appointed in his stead.

(b) In order still further to avoid any suspicion of partiality during the trial, the Governor and Commandant of the Department shall temporarily leave his post: he shall have absented himself within eight days from the date of this agreement, and shall remain away during the course of the summary proceedings.

(c) The British Consul at Puerto Cortes, or failing him, some other person especially named by the British Legation, shall be present at the judicial sittings of the court at La Ceiba.

II

In the event of the Mayor de Plaza being found guilty, the Government of Honduras will grant a proper indemnity to the family of the late Thurston, as also to the wounded man Robinson. The amounts

payable in this respect shall be agreed upon later with the English Legation.

GODFREY HAGGARD,
His Britannic Majesty's
Chargé d'Affaires.

(L. S.)

R. RIVERA RETES.

TEGUCIGALPA, *August 13, 1910.*

TREATY OF COMMERCE AND NAVIGATION BETWEEN THE UNITED KINGDOM
AND HONDURAS ¹

*Signed at Guatemala, May 5, 1910; ratifications exchanged at Guatemala,
June 21, 1915*

His Majesty the King of the United Kingdom of Great Britain and Ireland and of the British Dominions beyond the Seas, Emperor of India, and His Excellency the President of the Republic of Honduras, being desirous of further facilitating and extending the commercial relations already existing between their respective countries, have determined to conclude a treaty of commerce and navigation with this object, and have appointed as their plenipotentiaries, that is to say:

His Majesty the King of the United Kingdom of Great Britain and Ireland, Lionel Edward Gresley Carden, Esquire, His Majesty's Minister Resident and Consul-General in Central America; and

His Excellency the President of the Republic of Honduras, Doctor Manuel Francisco Barahona, Honduran Charge d'Affaires, in Guatemala;

Who, after having communicated to each other their respective full powers, found in good and due form, have agreed upon the following articles:

ARTICLE I

There shall be between the territories of the two contracting parties reciprocal freedom of commerce and navigation.

The subjects or citizens of each of the two contracting parties shall

¹ Great Britain, Treaty Series, 1915, No. 7.

have liberty freely to come, with their ships and cargoes, to all places and ports in the territories of the other, to which native subjects or citizens are, or may be permitted to come, and shall enjoy the same rights, privileges, liberties, favors, immunities and exemptions in matters of commerce and navigation as are or may be enjoyed by native subjects or citizens.

The subjects or citizens of each of the contracting parties shall not be subject in respect of their persons or property, or in respect of their commerce or industry, to any taxes, whether general or local, or to imposts or obligations of any kind whatever, other or greater than those which are or may be imposed upon native subjects or citizens or subjects or citizens of the most favored nation.

ARTICLE II

The contracting parties agree that in all matters relating to commerce, navigation, and industry, any privilege, favor, or immunity which either contracting party has actually granted or may hereafter grant to the subjects or citizens of any other foreign state, shall be extended immediately and unconditionally to the subjects or citizens of the other, it being their intention that the commerce, navigation, and industry of each country shall be placed in all respects on the footing of the most favored nation.

ARTICLE III

The subjects or citizens of each of the contracting parties in the territories of the other shall be at full liberty to acquire and possess every description of property, movable and immovable, which the laws of the country permit, or shall permit the subjects or citizens of any other foreign country to acquire and possess. They may dispose of the same by sale, exchange, gift, marriage, testament, or in any other manner or acquire the same by inheritance, under the same conditions which are or shall be established with regard to native subjects or citizens. They shall not be subjected in any of the cases mentioned to any taxes, imposts or charges of whatever denomination other or higher than those which are or shall be applicable to native subjects or citizens.

The subjects or citizens of each of the contracting parties, shall also be permitted, on compliance with the laws of the country, freely to export the proceeds of the sale of their property and their goods in gen-

eral without being subjected, as foreigners, to other or higher duties than those to which subjects or citizens of the country would be liable under similar circumstances.

ARTICLE IV

The subjects or citizens of each of the contracting parties:

1. Shall have full liberty with their families to enter, leave, travel, or reside in any part of the territories of the other contracting party.

2. They shall be exempted from all compulsory military service whatever, whether in the army, navy, national guard or militia.

3. They shall be equally exempted from all judicial functions whatever, other than those imposed by the laws relating to juries, as well as from all extraordinary war contributions, forced loans, and every species of military requisitions or service.

4. In all other matters affecting their persons or property, any privilege, favor or immunity which either contracting party has actually granted, or may hereafter grant to the subjects or citizens of any other foreign state, shall be extended immediately and unconditionally to the subjects or citizens of the other.

ARTICLE V

The dwellings, manufactories, warehouses and shops of the subjects or citizens of each of the contracting parties in the territories of the other and all premises appertaining thereto destined for purposes of residence or commerce, shall be respected.

It shall not be allowed to make a search of, or a domiciliary visit to such dwellings and premises or to examine or inspect books, papers or accounts, except under the conditions and with the forms prescribed by the laws for subjects or citizens of the country or of the most favored nation.

The subjects or citizens of each of the two contracting parties in the territories of the other shall have free access to the courts of justice for the prosecution and defence of their rights without other conditions, restrictions, or taxes beyond those imposed on native subjects or citizens.

ARTICLE VI

The articles, the produce or manufacture of one of the contracting parties, imported into the territories of the other, from whatever place

arriving, shall not be subjected to other or higher duties or charges than those paid on the like articles, the produce or manufacture of any other foreign country. Nor shall any prohibition or restriction be maintained or imposed on the importation of any article, the produce or manufacture of either of the contracting parties into the territories of the other, from whatever place arriving, which shall not equally extend to the importation of the like articles being the produce or manufacture of any other foreign country.

The only exceptions to this general rule shall be in the case of sanitary or other prohibitions occasioned by the necessity of securing the safety of persons, or of cattle, or of plants useful to agriculture and of the measures applicable in either of the two countries to articles enjoying a direct or indirect bounty in the other.

ARTICLE VII

The articles, the produce or manufacture of one of the contracting parties, exported to the territories of the other, shall not be subjected to other or higher charges than those paid for the like articles exported to another foreign country. Nor shall any prohibition be imposed on the exportation of any article from the territories of either of the two contracting parties to the territories of the other which shall not equally extend to the exportation of the like article to any other foreign country.

ARTICLE VIII

Merchandise of all kinds, the produce or manufacture of one of the contracting parties, passing in transit through the territories of the other, shall be reciprocally free from all transit duties, whether they pass direct, or whether during transit they are unloaded, warehoused and reloaded. But if the goods remain for more than three days in the bonded warehouses of one of the contracting parties, they shall be liable to the payment of the usual warehousing charges, which shall, in no case, exceed the charges payable by subjects or citizens of the country in which the warehouse is situated. Similarly, subjects or citizens of each of the contracting parties shall enjoy the same treatment in regard to warehousing accommodation as is accorded to national subjects or citizens.

ARTICLE IX

The stipulations of the present treaty, with regard to the mutual accord of the treatment of the most favored nation, apply uncondition-

ally to the treatment of commercial travellers and their samples. The chambers of commerce, as well as such other trade associations and other recognized commercial associations in the contracting states as may be authorized in this behalf, shall be mutually accepted as competent authorities for issuing any certificates that may be required for commercial travellers.

ARTICLE X

No internal duties levied for the benefit of the state, local authorities, or corporations which affect, or may affect the production, manufacture, or consumption of any article in the territories of either of the contracting parties shall for any reason be a higher or more burdensome charge on articles the produce or manufacture of the other than on similar articles of native origin.

The produce or manufacture of either of the contracting parties imported into the territories of the other, and intended for warehousing or transit, shall not be subjected to any internal duty, unless they are placed on the market for consumption, the only charge leviable on them being that for warehousing.

ARTICLE XI

Each of the contracting parties shall permit the importation or exportation on the vessels of the other of all merchandise which may be legally imported or exported; and such vessels and their cargoes shall enjoy the same privileges and shall not be subjected to any other or higher duties or charges than national vessels and their cargoes.

ARTICLE XII

The provisions of this treaty relating to the mutual concession of national treatment in matters of navigation do not apply to the coasting trade, in respect of which the subjects or citizens and vessels of the contracting parties shall enjoy most-favored-nation treatment.

British and Honduran vessels may, nevertheless, proceed from one port to another, either for the purpose of discharging the whole or part of their cargoes brought from abroad, or of taking on board the whole or part of their cargoes for a foreign destination.

ARTICLE XIII

In all that regards the stationing, loading and unloading of vessels in the ports, docks, roadsteads and harbors of the territories of the con-

tracting parties, no privilege shall be granted to national vessels which shall not be equally granted to vessels of the other country; the intention of the contracting parties being that, in this respect also, their vessels shall be treated on the footing of perfect equality, the two governments, however, reserving the right to grant special privileges to their national vessels when engaged in rendering mail or other government service.

ARTICLE XIV

No duties of tonnage, harbor, pilotage, lighthouse, quarantine, or other analogous duties of whatever nature or under whatever denomination, levied in the name or for the profit of the government, private individuals, corporations, or establishments of any kind, shall be imposed in the ports of the territories of either of the contracting parties upon the vessels of the other country which shall not equally and under the same conditions be imposed in the like cases on national vessels in general. Such equality of treatment shall apply to the respective vessels from whatever port or place they may arrive and whatever may be their destination.

ARTICLE XV

Any vessel of either of the contracting parties which may be compelled, by stress of weather or by accident, to take shelter in a port of the other, shall be at liberty to refit therein, to procure all necessary stores and to put to sea again, without paying any dues other than such as would be payable in a similar case by a national vessel. In case, however, the master of a merchant vessel should be under the necessity of disposing of a part of his merchandise in order to defray his expenses he shall be bound to conform to the regulations and tariffs of the place to which he may have come.

If any vessel of one of the contracting parties should run aground or be wrecked upon the coasts of the other, such vessel and all parts thereof and all furniture and appurtenances belonging thereunto, and all goods and merchandise saved therefrom, including any which may have been cast into the sea, or the proceeds thereof, if sold, as well as all papers found on board such stranded or wrecked vessel shall be given up to the owners or their agents when claimed by them. If there are no such owners or agents on the spot, then the same shall be delivered to the British or Honduran consular officer in whose district the wreck or stranding may have taken place, upon being claimed by him within the period

fixed by the laws of the country, and such consular officers, owners or agents shall pay only the expenses incurred in the preservation of the property, together with the salvage or other expenses which would have been payable in the like case of a wreck of a national vessel.

The contracting parties agree, moreover, that merchandise saved shall not be subjected to the payment of any customs duty unless cleared for internal consumption.

In the case either of a vessel being driven in by stress of weather, run aground, or wrecked, the respective consular officers shall, if the owner or master or other agent of the owner is not present or is present, and requires it, be authorized to interpose in order to afford the necessary assistance to their fellow-countrymen.

ARTICLE XVI

All vessels which, according to British law, are to be deemed British vessels, and all vessels which, according to Honduran law, are to be deemed Honduran vessels, shall, for the purposes of this treaty, be deemed British or Honduran vessels, respectively.

ARTICLE XVII

It shall be free to each of the high contracting parties to appoint consuls-general, consuls, vice-consuls, and consular agents to reside in the towns and ports of the dominions and possessions of the other. Such consuls-general, consuls, vice-consuls, and consular agents however, shall not enter upon their functions until after they shall have been approved and admitted in the usual form by the government to which they are sent. They shall enjoy all the facilities, privileges, exemptions and immunities of every kind which are or shall be granted to consuls of the most favored nation.

ARTICLE XVIII

The consuls and consular agents of each of the contracting parties, residing in the territories of the other, shall receive from the local authorities such assistance as can by law be given to them for the recovery of deserters from the vessels of their respective countries.

Provided that this stipulation shall not apply to subjects or citizens of the state in whose territory the desertion takes place.

ARTICLE XIX

The subjects or citizens of each of the contracting parties shall have, in the territories of the other, the same rights as native subjects or citizens in regard to patents for inventions, trade-marks, and designs, upon the fulfilment of the formalities prescribed by law.

ARTICLE XX

All goods bearing marks or descriptions which state or manifestly suggest that the goods are the produce or manufacture of one of the contracting states shall, if such statement or suggestion be false, be seized on importation into either of the two states. The seizure may also be effected in the state where the false indication of origin has been applied, or in that into which the goods bearing the false indication may have been imported.

The seizure shall be effected either at the request of the proper government department or of an interested party whether an individual or a society in conformity with the domestic legislation of each state, but the authorities are not bound to effect the seizure of goods in transit.

The tribunals of each country shall decide what appellations, on account of their generic character, do not fall within the provisions of the present article.

ARTICLE XXI

Any controversies which may arise respecting the interpretation or the execution of the present treaty or the consequence of any violation thereof, shall be submitted, when the means of settling them directly by amicable agreement are exhausted, to the decision of commissions of arbitration, and the result of such arbitration shall be binding upon both governments.

The members of such commissions shall be selected by the two governments by common consent, failing which, each of the two parties shall nominate an arbitrator, or an equal number of arbitrators, and the arbitrators thus appointed shall select an umpire.

The procedure of the arbitration shall in each case be determined by the two contracting parties, failing which the commission of arbitration shall be itself entitled to determine it beforehand.

ARTICLE XXII

The stipulations of the present treaty shall not be applicable to any of his Britannic Majesty's colonies, possessions or protectorates beyond the seas, unless notice of adhesion shall have been given on behalf of any such colony, possession, or protectorate by His Britannic Majesty's representative in Central America, before the expiration of one year from the date of the exchange of the ratifications of the present treaty.

Nevertheless, the goods produced or manufactured in any of His Britannic Majesty's colonies, possessions, and Protectorates, shall enjoy in Honduras complete and unconditional most-favored-nation treatment, so long as such colony, possession or protectorate shall accord to goods the produce or manufacture of Honduras treatment as favorable as it gives to the produce or manufacture of any other foreign country.

ARTICLE XXIII

The stipulations contained in this treaty providing for the mutual accord of the treatment of the most favored nation shall not be held to be applicable to the special concessions which Honduras may have accorded or may in future accord to other Central American Republics.

ARTICLE XXIV

The present treaty shall be ratified and the ratifications shall be exchanged at Guatemala as soon as possible. It shall come into force immediately upon ratification and shall be binding during ten years from the day of its coming into force. In case neither of the contracting parties shall have given notice to the other, twelve months before the expiration of the said period of ten years, of the intention to terminate the present treaty it shall remain in force until the expiration of one year from the day on which either of the contracting parties shall have denounced it.

As regards, however, the British Colonies, possessions, and protectorates which may have adhered to the present treaty, in virtue of Article XXII, either of the contracting parties shall have the right to terminate it, separately, at any time, on giving twelve months' notice to that effect.

It is understood that the stipulations of the present article and of Article XXII, referring to British colonies, possessions or protectorates, apply, also, to the Island of Cyprus.

In witness whereof, the respective plenipotentiaries have signed the present treaty and have affixed thereto their seals.

Done in two originals at the city of Guatemala, the fifth day of May one thousand nine hundred and ten.

(L. S.) LIONEL CARDEN.

(L. S.) MANUEL F. BARAHONA.

ITALIAN DECREES RELATIVE TO ENEMY MERCHANT VESSELS, TOGETHER
WITH THE ITALIAN NAVAL PRIZE REGULATIONS ¹

No. 1

Royal Decree of May 30, 1915 (No. 814)

[Translation.]

*Thomas of Savoy, Duke of Genoa, Lieutenant-General of His Majesty
Victor Emanuel III, by the grace of God and the will of the Nation,
King of Italy*

In virtue of the authority delegated to us;

Whereas the Royal Decree of the 16th May, 1915, No. 659 suspends the application of Article 211 and 243 of the Mercantile Marine Code in the event of the participation of Italy in the present international conflict;

Having regard to the VIth and the XIth Convention signed at The Hague on the 18th October, 1907, which Italy declares she will observe so far as the laws in force in the kingdom and the other measures taken by the Government of the King permit;

Whereas a state of war exists;

In virtue of the extraordinary powers conferred on the Government of the King by the law of the 22nd May, 1915, No. 671.

The Council of Ministers having been consulted;

On the motion of the Minister of Marine, acting in concert with the Ministers for Foreign Affairs, of the Colonies and of Finance;

¹ British Parliamentary Papers, Miscellaneous, No. 18 (1915). [Cd. 8104.]

We have decreed and decree:

Article 1. All enemy merchant ships lying in the ports and territorial waters of the kingdom and of its colonies at the outbreak of hostilities shall be sequestered by the local naval authorities.

Art. 2. Special technical commissions assisted by the naval authorities shall visit enemy merchant ships thus sequestered with the object of ascertaining which among them are so constructed or built, or contain such internal arrangements or fittings, as may justify the assumption that they are intended to be converted eventually into warships.

Art. 3. In all cases in which it shall be found that vessels were intended for conversion into warships, these vessels shall be captured and placed under the jurisdiction of the Prize Court for a decision as to their ultimate disposal.

Art. 4. The vessels which shall not be found to have been intended for conversion into warships shall remain under sequestration. They may be requisitioned by the Minister of Marine for the whole duration of the present war, in accordance with rules to be laid down in another decree.

Art. 5. Enemy goods found on board all merchant vessels referred to in Article 1 above mentioned shall be sequestered and restored after the war without an indemnity, or else requisitioned with an indemnity.

Perishable goods shall be sold on special conditions which shall be laid down by our Ministry of Marine.

Art. 6. Neutral goods found on board any merchant ship referred to under Article 1 shall be released subject to an option of requisitioning them with an indemnity which the Government of the King may exercise.

Art. 7. The decision as to the nationality of the goods referred to under the preceding Articles 5 and 6, and the consequent verdict as to the release or sequestration of these goods shall lie with the Prize Court.

Art. 8. The regulations laid down in Articles 5 and 6 of the XIth Hague Convention of the 18th October, 1907, shall be applicable to the members of the crews on enemy merchant vessels referred to in the preceding Article 1.

Art. 9. The treatment laid down in the preceding articles shall not be extended to enemy merchant ships which shall carry out or attempt to carry out any acts of hostility whether direct or indirect.

Art. 10. The rules laid down in the preceding articles are also applicable to those enemy merchant ships which shall have left their last

port before the declaration of war, and which are met at sea before they are aware of the commencement of hostilities.

Art. 11. The Minister of Marine is empowered to issue special rules² for the publication of the present decree which comes into force to-day.

We order that the present decree, furnished with the seal of state, be included in the official record of the laws and decrees of the Kingdom of Italy, requiring everyone concerned to observe it and cause it to be observed.

Given at Rome this 30th day of May, 1915.

THOMAS OF SAVOY.

No. 2

ROYAL DECREE OF JUNE 17, 1915 (No. 957)

[Translation.]

[Special regulations for the application of the Decree of 30th May, 1915, No. 814, relating to the treatment of enemy merchant vessels in ports of the Kingdom or of the Colonies.]

Thomas of Savoy, Duke of Genoa, Lieutenant-General of His Majesty Victor Emanuel III, by the Grace of God and the will of the Nation, King of Italy:

In virtue of the authority delegated to us;

In view of the law of the 22nd May, 1915, No. 671, that confers extraordinary powers on the Government of the King;

In view of our decree dated the 30th May, 1915, No. 814, which lays down rules for the treatment of enemy merchant vessels lying in the ports of the kingdom and the colonies;

At the proposal of the Ministry of Marine, in concert with the Ministries for Foreign Affairs and the colonies;

We have decreed and do decree:

Article 1. Enemy merchant vessels present in the ports and territorial waters of the kingdom at the outbreak of hostilities, and seques-

² See No. 2.

trated by the local maritime authorities in accordance with Article 1 of our decree of the 30th May, 1915,³ No. 814, are inscribed on a provisional register at the Maritime Department of Genoa, and are authorized to use the national flag and to navigate conformably to the regulations established in the following articles.

Art. 2. Vessels captured in virtue of Article 3 of our decree of the 30th May, 1915, No. 814, are placed at the disposal of the Ministry of Marine, who may arm and man them, and employ them in the service of the Royal Government pending the final judgment of the Prize Court.

Art. 3. Vessels sequestered in conformity with Article 4 of our decree of the 30th May, 1915, No. 814, may be requisitioned by the Ministry of Marine for the whole period of hostilities, either to be armed and manned by the Royal Navy, or to be handed over to the service of some other state administration or public body, or again to a navigation company acting under the authority of the above-mentioned Ministry.

The service of vessels indicated in the present article shall be regulated by the rules governing the national mercantile marine except when such vessels shall have been transformed into ships of war.

Art. 4. A special commission formed by the Ministry of Marine, presided over by the Director-General of the Mercantile Marine, and composed of a superior naval officer, of a superior official of the central administration of the mercantile marine, and a captain of the port, will lay down the conditions under which the use of vessels referred to in Article 3 will be conceded to such administrations, corporations, or societies as may apply for them and may be duly authorized to employ them.

Art. 5. The payment of a monthly rate for charter corresponding to the commercial interest on the real value of the vessel at the time of its requisition shall be included among the conditions attached to the chartering of the vessels in question.

The cost of any important or minor repairs that may be necessary to enable the ship to go to sea shall be deducted from the monthly rate referred to in the previous paragraph.

On the other hand, the charges of upkeep and all other expenses entailed by the running of the vessel shall be defrayed by the administrations, corporations, or societies who have taken it over.

Art. 6. The monthly rates to be paid for charter as conditioned by

³ See No. 1.

the preceding article, and minus the deductions provided for in the same, shall be paid into a special and separate fund to the credit of the parties entitled thereto at the Caisse of Deposits for seamen in the Maritime Department of Genoa.

At the end of hostilities the fund will be liquidated in favor of those entitled, in accordance with our dispositions to follow.

We order that the present decree, furnished with the seal of state, be included in the official record of the laws and decrees of the Kingdom of Italy, requiring everyone concerned to observe it and cause it to be observed.

Given at Rome this 17th day of June, 1915.

THOMAS OF SAVOY.

No. 3

ROYAL DECREE OF JUNE 24, 1915 (No. 1014)

[Translation.]

Thomas of Savoy, Duke of Genoa, Lieutenant-General of His Majesty Victor Emanuel III, by the Grace of God and the will of the Nation, King of Italy:

In virtue of the authority delegated to us;

Whereas the Royal Decree of the 16th May, No. 659, suspends the application of Article 243 of the Mercantile Marine Code during the present international conflict;

Whereas our decree of the 30th May, 1915, No. 814, in substitution of Article 243 of the Mercantile Marine Code, lays down rules for the treatment of enemy merchant vessels in the territorial waters of the kingdom and of the colonies, on the outbreak of hostilities;

Whereas our decree of the 17th June, 1915, No. 957, in pursuance of the above-mentioned decree of the 30th May, 1915, No. 814, lays down rules for the use of enemy merchant vessels sequestered in the ports of the kingdom and of the colonies;

Having regard to Article 244 of the Mercantile Marine Code;⁴

⁴ Article 244 is as follows: (Translation.) "Vessels sequestered as indicated above and merchandise loaded on the same which are of enemy property may,

In virtue of the extraordinary powers conferred on the Government of the King by the law of the 22nd May, 1915, No. 671;

The Council of Ministers having been consulted;

On the motion of the Minister of Marine, acting in concert with the President of the Council of Ministers, the Minister of the Interior, and with the Ministers for Foreign Affairs, of the Colonies, and of Grace and Justice, and Worship;

We have decreed and decree:

Article 1. If the enemy causes damage to the lives or goods of Italian subjects or citizens by bombarding undefended towns, ports, villages, houses, or other buildings, by destroying unarmed merchantmen, or by committing any hostile acts which are contrary to the principles of the rights of war generally recognized and admitted—The Government of the King are authorized to order the appropriation of the sum required to indemnify Italian subjects or citizens, or their representatives, who have suffered damage from the enemy, from the fund which has been established by the Caisse of Deposits for seamen in the Maritime Department of Genoa in accordance with the terms of Article 6 of our decree of the 17th June, 1915, No. 957.

Art. 2. If the fund established in virtue of Article 6 of our decree of the 17th June, 1915, No. 957, shall not prove sufficient to indemnify those who have suffered damage in the sense indicated in the preceding Article 1, those enemy merchant ships in regard to which the provision of sequestration has been enacted in accordance with the terms of Article 4 of our decree of the 30th May, 1915, No. 814, may be declared good prize and confiscated.

Similar treatment may be accorded to such enemy goods as have been found on board all enemy merchant ships sequestered in ports of the kingdom and of its colonies at the outbreak of hostilities, for which the provision of sequestration was established in Article 5 of our decree of the 30th May, 1915, No. 814.

Art. 3. Decisions as to the legitimacy of prizes which may be declared under the terms of the preceding Article 2, as well as the disposal of the according to circumstances, be detained until the conclusion of hostilities or else declared to be good prize.

"In that case the proceeds will go to indemnify, *pro rata* of the respective interests involved, Italian subjects who have suffered injury from the enemy, subject to the observance of the rules and procedure established above, both in regard to judgment as to the legitimacy of the prize and in the liquidation connected therewith."

sums obtained from their seizure, and the distribution of the fund mentioned in the preceding Article 1 will be taken by the Prize Court, which will be guided by the rules and procedure established in the Mercantile Marine Code, and by the regulations drawn up for the court itself.

Art. 4. If the Prize Court ascertains that the sums composing the fund mentioned in Article 1, or the ships or goods declared to be good prize and confiscated in accordance with the terms of Article 2, belong to individuals of Italian nationality but natives of regions which are under the dominions of the Austro-Hungarian Empire, the Prize Court may suspend the acts of distribution of such sums or of the sums obtainable from the sale of such ships or goods, and inform the Government of the King of the facts ascertained; the Government of the King may then after the Council of Ministers has considered the matter proceed to liberate the sums, ships, and goods belonging to the above-mentioned individuals, or may invite the Prize Court to continue the action and procedure provided for in the preceding articles.

Art. 5. Subsequent dispositions ⁵ will be issued establishing the mode of procedure for the application of Articles 1 and 2 of the present decree.

We order that the present decree, furnished with the seal of state, be included in the official record of the laws and decrees of the Kingdom of Italy, requiring everyone concerned to observe it and cause it to be observed. Given at Rome this 24th day of June, 1915.

THOMAS OF SAVOY.

No. 4

ITALIAN NAVAL PRIZE REGULATIONS

(Approved by decree of July 15, 1915)

[Translation]

1. In execution of the Royal decree of the 16th May, 1915, suspending the application of Article 211 of the Mercantile Marine Code during the present conflict, the capture of enemy merchant ships is authorized in every case, with the following exceptions:

(a) Sailing boats adapted exclusively to shoal-water fishing, or to

⁵ These have not yet been published.

short local services within 3 miles of the enemy coast, provided they do not exceed 5 tons displacement, nor violate special provisions issued by the military authorities concerning fishing and navigation.

(b) Ships exclusively employed for religious, scientific or philanthropic purposes, hospital ships fitted out by private persons or charitable societies expressly recognized as such by the Royal Government in accordance with special instructions issued to naval commanding officers.

Cargoes which are enemy property in boats specified under (a) are exempt from sequestration, provided they do not include contraband of war; cargoes which are enemy property are equally exempt on board ships specified under (b) when connected with the mission on which the ship is engaged.

Boats and ships included under (a) and (b) are, however, in every case subject to capture as well as their cargoes, being enemy property, when such ships and boats take any direct or indirect part in hostilities.

2. Merchant ships, under whatever flag they may be sailing, shall be subject to capture in accordance with the provisions of the following articles if—

- (a) Guilty of violation of blockade;
- (b) Transporting contraband of war;
- (c) Lending assistance to the enemy;
- (d) They forcibly resist or endeavor to avoid search;
- (e) They are without ship's papers, or have on board ship's papers or manifests which are either falsified, altered, or insufficient so as to give rise to suspicion that they are concealing their real nationality or the real description or destination of the cargo;
- (f) They are going to an enemy port, while on the ship's papers a neutral destination is indicated;
- (g) They have been transferred from an enemy to a neutral flag subsequent to the outbreak of war, or not more than 30 days before that date, or not more than 60 days when the deed of sale by which the transfer of flag was effected is not found on board.

3. A ship is liable to be captured for violation of blockade when it endeavors to enter or leave a blockaded zone without being furnished with a formal safe-conduct, or when, after having obtained a safe-conduct to enter or leave, it does not observe the rules laid down as to the route which it must follow while navigating in the blockaded zone or crossing the line of blockade.

4. If a ship is shaping its course towards a blockaded zone in ignorance

of the existence of the blockade, she shall be notified of it by one of the blockading vessels, entry to that effect being made, if possible, in her log.

Ignorance of the existence of blockade is assumed when this has been declared after the ship left its last port of call.

5. Are considered as contraband of war the objects and materials included in the respective lists approved by decree.

Articles of absolute and conditional contraband are seized when their destination is territory belonging to or occupied by the enemy, or when consigned to the enemy's forces.

Both absolute and conditional contraband on board a ship proceeding to a neutral port is subject to seizure when the name of the consignee does not appear on the manifest, or when the ultimate consignee resides in territory belonging to or occupied by the enemy, or when the goods are consigned to agents of an enemy government, wherever established, or to third persons who are receivers of the goods on account of agents of an enemy government.

6. A ship carrying absolute or conditional contraband may be captured on the high sea or in belligerent territorial waters at any time during its voyage.

If, however, contraband articles form a small part of the cargo, naval commanding officers may at their discretion take over, and, if circumstances require it, destroy the contraband goods, and after noting the fact in the ship's log may allow the vessel to continue her voyage.

7. A ship shall be captured as guilty of giving assistance to the enemy if she—

- (a) Has taken direct part in hostilities;
- (b) Has been entirely chartered by an enemy government, or has on board an agent of such government in control of the ship;
- (c) Is employed exclusively for the transport of troops, or for the transmission of news in the enemy's interest;
- (d) Is engaged in transporting enemy military detachments or persons who during the voyage may render or have lent direct assistance to the enemy's operations with the knowledge of the owner, charterer, or master;
- (e) Is navigating with the specific object of transporting individuals on their way to join the enemy's armed forces.

8. Persons belonging to or intending to join the enemy's armed forces found on board a neutral vessel may be made prisoners of war, even though the ship be not subject to capture.

9. To carry out the instructions contained in the preceding articles, naval commanding officers, whenever it is judged useful, shall proceed to visit merchant ships on the high sea or in belligerent waters, or may request them to proceed to the nearest port to undergo visit there.

10. Neutral vessels convoyed by a ship of war shall be exempt from visit provided that the commander of the convoy declares in writing the character and cargo of the convoyed vessels in such a manner as will enable all information to be available which could be obtained by exercising the right of visit. If the naval officers in command have reason to think that the good faith of the commanding officer of the escort has been imposed upon, they will communicate to him their suspicion, so that he may on his own account make the necessary verifications and issue a written report.

11. The vessels or goods captured shall be brought to the nearest port in the kingdom, colonies, or territory occupied by Italy, or, this being impossible, to a port of an allied nation or occupied by the latter, or in case of absolute necessity to a neutral port. The vessels and goods shall there be placed at the disposal of the maritime and consular authorities as the case requires, together with a report of what has been done, accompanied by the respective declarations and documents.

12. When observance of the provisions of the preceding article may endanger the safety of the ship effecting the capture, or may interfere with the success of operations of war in which she is engaged, naval commanding officers may destroy the prize after providing for the safety of the persons on board and the ship's papers and manifests and of anything else which may help in deciding the legitimacy of the capture. The destruction of a prize must be justified in a special *procès-verbal*.

By order of His Majesty's Lieutenant-General,

Ministry of Marine:

VIALE.

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REGULATIONS GOVERNING THE VISITS OF MEN-OF-WAR TO FOREIGN PORTS.¹

[Issued by the Office of Naval Intelligence, United States Navy
Department, September, 1913; corrected to June 10, 1916.]

ARGENTINE REPUBLIC.

There are no restrictions as to the number of men-of-war under one flag that may visit any port at one time, nor as to the duration of such visit. There are no closed ports in this country.

AUSTRIA-HUNGARY.

SECTION. 1. Permission to anchor in the case of friendly foreign men-of-war and their stay in Austro-Hungarian waters is subject to the following paragraphs:

SEC. 2. In an Austrian or Hungarian port there must not be more than three ships flying the same flag.

¹ The following preface appears in the official print issued in September, 1913:

This compilation was undertaken with the view of furnishing in a compact form the various regulations, rules, and customs which govern the visits of men-of-war to foreign ports.

There are no general regulations established by international agreement on this subject, but many of the nations of the world have formulated laws, or regulations with the force of laws, which lay certain restrictions upon the visiting men-of-war of other nations.

It has been thought advisable to publish these decrees verbatim rather than present them in a condensed and perhaps obscure form.

It will be seen that in some cases the laws are applicable to all the ports of the nation, while in others they apply only to a restricted area of the littoral, or to certain ports.

Furthermore, some of the laws are applicable only during a certain period of time, as from sunset to sunrise.

Again, some of the laws or regulations are effective only in time of war, while the majority deal with times of peace.

It is intended to embody these regulations in the next edition of the Port Directory, issued by this office in 1911.

NAVY DEPARTMENT,

OFFICE OF NAVAL INTELLIGENCE,

September, 1913.

Along the whole length of the Austrian and Hungarian coasts there must not be contemporaneously staying more than six men-of-war flying the same flag.

This prescription may be departed from only in case of peril of the sea or by permission obtained by diplomatic means.

SEC. 3. Along the coast within sight of signals, foreign men-of-war must fly their own flag.

SEC. 4. On entering a port foreign men-of-war must abide by the orders given by the port authorities or their representatives.

The point of anchorage of foreign men-of-war is assigned by the local port authorities.

SEC. 5. During their stay in port, as also in their communication with the shore, foreign men-of-war must abide by the port police regulations as well as those of the customs and health authorities and comply with their requests.

SEC. 6. If on entering or leaving a port a pilot is obligatory on the part of a foreign man-of-war, the same must take on board the pilot sent by the authorities and follow his orders.

For the pilot's services no fee is paid by a foreign man-of-war and no responsibility as to its safety is assumed.

SEC. 7. A man-of-war on entering a port is boarded by a port and a quarantine officer. The latter hands to the commander of the vessel the *constituto* form the blanks of which he has to fill in with his own hand. The officer will then inform the commander of the port police regulations.

SEC. 8. The form of the *constituto*, which the commander of the man-of-war has to fill in with his own hand, contains the following questions: Flag, specification of man-of-war, viz., if battleship, cruiser, gunboat, etc., name, number of crew, number of guns, name and rank of the commander, port of departure, duration of the voyage, probable duration of ship's stay, if and what passengers are on board, and the state of crew's health.

Of this *constituto* the political as well as the naval and military authorities have to be notified by the port office.

SEC. 9. Foreign men-of-war are forbidden to make topographic and hydrographic surveys of whatever description in Austrian and Hungarian waters, or to take soundings, to complete or rectify depths either from on board ship or ship's boats.

Target firing in territorial waters or on shore, as well as landing

maneuvers, can be made only by permission of the local territorial military headquarters.

Within the limits of territorial waters no capital executions are allowed.

SEC. 10. Excepting officers and petty officers who are allowed to wear their swords, the crew of a foreign man-of-war must not wear their arms on shore.

As a rule, an armed force is not allowed to land, but in case of a funeral service permission must be asked of the military authorities, or, if needed, also of the police authorities to land an armed escort.

SEC. 11. If a foreign man-of-war has to be docked or moored to the shore, every article of munition, including munition for torpedoes and mines and other explosive apparatus, must be landed on the spot assigned as per actual prescriptions.

Within the radius of the port the firing of guns or other arms, as also fireworks, is prohibited, except in firing a salute or signaling.

SEC. 12. In Austrian and Hungarian ports it is not permitted to foreign men-of-war to engage in actual hostilities with each other, and therefore any ship opening hostilities shall be treated as an enemy's ship.

It is likewise forbidden to stop in territorial waters and make perquisitions of ships or seize prize ships or commit any act tantamount to usurping the sovereignty of the state.

SEC. 13. With regard to the ship's boats plying to and from the shore, foreign men-of-war must follow the instructions of the port authorities and use only those places of landing as shall have been assigned.

SEC. 14. The following are declared ports of war:

(1) The port of Pola, including the neighboring anchorage of Cape Molera, in the Straits of Quarnero, passing by Cape Promontore up to Punta Settentrionale of the Brioni Isles.

(2) Golfo di Cattaro waters, within a line between Punta d'Ostro to Punta d'Orza.

SEC. 15. Foreign men-of-war may enter also an imperial royal port of war after due advice of their government and duly observing the foregoing prescriptions, but only in daytime, excepting in case of perils of the sea, and their stay cannot extend beyond a period of eight days. Permission to prolong their stay beyond this period can only be obtained by diplomatic means.

A commander of a fortress is bound to afford every possible assistance to foreign men-of-war.

SEC. 16. If a foreign man-of-war on nearing a fortified port within gunshot should not fly its flag, the nearest port shall fire a blank shot as a caution, and after two minutes another shot, this time with a loaded shot at the ship's prow, however, so as not to hit it, and if no heed is taken of this warning, within three minutes fire will be opened on the ship.

SEC. 17. Within gunshot of a fortified port foreign men-of-war must not engage in target firing nor use their searchlights.

SEC. 18. In war ports and the vicinity of sea-coast fortifications in general—that is to say, within a radius of 8 kilometers, equal to 5 miles, of a fortified port or coast fortification, reckoned from the projecting angles of the exterior forts—it is not allowed to draw plans and sketches, take photographs or other views of the ground or roads leading thereto.

SEC. 19. At Pola, foreign men-of-war may anchor only in the roadstead—that is to say, outside the line peninsula of St. Pietro and island of S. Andrea.

In the waters of Bocche di Cattaro men-of-war of friendly Powers may anchor only in the outer port of war—that is to say, up to the Strait of Cumbur—and the point of anchorage is assigned by the ship stationed there or by the military authorities of Castelnovo.

SEC. 20. In the ports of war port police affairs are ruled by the naval or the military authorities. The sanitary affairs are left to the port captains under supervision of the maritime department.

SEC. 21. In time of war no ship or floating object can approach near a fortified port or a naval encampment of the Austrian or the Hungarian coasts without having previously received a special permission. Ships passing before fortified places must keep outside territorial waters.

SEC. 22. If a friendly Power's ships, in time of war, come near a fortified port or naval encampment with the intention of entering, it must hoist its international recognition signal and wait outside the territorial zone for permission to enter.

With regard to passing by or nearing the sea tract in front of the port of Pola, special prescriptions will be issued in time of war.

BELGIUM.

18 February, 1901.

ARTICLE 1. In time of peace war vessels belonging to foreign powers may enter freely Belgian harbors of the North Sea and anchor off said

harbors within territorial waters, provided that the number of such vessels flying the same flag, including those already within that zone, or in harbor, does not exceed three.

ART. 2. Foreign men-of-war may not enter the Belgian waters of the Scheldt, anchor in the roads of Antwerp, nor penetrate within the inland waters of the kingdom without first obtaining the authorization of the Minister of Foreign Affairs.

This authorization shall be asked through the medium of the sub-inspector of Belgian pilotage at Flushing.

ART. 3. Foreign men-of-war, unless specially authorized by the government, may not remain longer than two weeks in the Belgian territorial waters and harbors.

They are required to put to sea within six hours when requested to do so by the navy administration or the territorial military authorities, even should the time fixed for their stay have not expired.

ART. 4. Should peculiar circumstances demand it, the government reserves the right to modify the above restrictions to the entrance or stay of foreign men-of-war in Belgian waters and harbors.

ART. 5. The dispositions of Articles 1, 2, and 3, do not apply to men-of-war whose admission has been authorized through diplomatic channels, nor to vessels on board of which happen to be either a chief of state, a prince of a reigning dynasty, or a diplomatic agent accredited near the King or government.

ART. 6. Foreign men-of-war in Belgian waters are prohibited from making sketches or taking soundings, as well as from engaging in landing or firing exercises.

Members of the crew should be without arms while on shore. Commissioned and noncommissioned officers may carry the arms which form a part of their uniforms.

Boats plying in the harbors and territorial waters must not be armed.

Should funeral honors be given on shore, an exception to paragraph 2 of the present article may be authorized by the Minister of War on request of the territorial military authorities.

ART. 7. Captains of foreign men-of-war are required to observe the laws and regulations concerning the police, public health, taxes, and imposts, unless exceptions be established by particular convention or by international usages.

Admittance of Men-of-War of Belligerent Nations.

ART. 8. Vessels belonging to the navy of a Power engaged in a maritime war are only admitted in the Belgian territorial waters and harbors for a stay of 24 hours. The same vessels will not be admitted twice within the space of three months.

ART. 9. Access to the Belgian waters of the Scheldt is forbidden, except through special governmental authorization, to men-of-war of a Power engaged in maritime warfare. No pilot may be furnished to said men-of-war unless provided with such authorization.

In case the authorization has not been obtained through diplomatic channels, it must be requested through the medium of the subinspector of Belgian pilotage at Flushing, who shall transmit the decision to the commander of the vessel.

ART. 10. Save in case of distress, serious injuries, or shortness of provisions and fuel, admittance into the Belgian territorial waters and harbors in the North Sea is forbidden to war vessels convoying prizes, and to privateers, whether convoying prizes or not.

ART. 11. If men-of-war or privateers of a nation engaged in a maritime war are forced to take refuge in the Belgian waters or harbors of the North Sea owing to dangers of the sea, serious injuries, or lack of provisions or fuel, they shall leave as soon as the weather permits or else within the 24 hours following the authorized repairs or the shipment of the provisions shown to be necessary.

ART. 12. The commander of any war vessel of a belligerent Power, immediately after his entrance into the territorial waters or harbors of Belgium in the North Sea, shall, at the request of the naval administration, be invited to furnish accurate information touching the flag, the name, the tonnage, the engine power, the crew of the vessel, her armament, the port of departure, the destination, as well as all other information necessary to determine if need be the repairs or supplies of provisions and coal that may be necessary.

ART. 13. In no case shall vessels of war or privateers of a nation engaged in a maritime war be furnished with supplies or means of repairs in excess of what is indispensable to reach the nearest port of their country or of a nation allied to theirs in the war. The same vessel may not, unless specially authorized, be provided with coal a second time until the expiration of three months after a first coaling in a Belgian port.

ART. 14. The vessels specified in the preceding article may not, with the aid of supplies taken in Belgian territory, increase in any way their war material nor strengthen their crews, nor make enlistments, even among their own countrymen, nor execute under the pretext of repairs works of a nature to augment their military efficiency, nor land for the purpose of forwarding to their homes, by land routes, men, sailors or soldiers, happening to be on board.

ART. 15. They must abstain from any act intended to convert their place of refuge into a base of operations whatever against their enemies, and also from any investigation into the resources, forces, or location of their enemies.

ART. 16. They are required to conform with the prescriptions of Articles 6 and 7 of the present order, and to entertain peaceful relations with all vessels, whether friends or enemies, anchored in the same harbor or within the same Belgian territorial zone.

ART. 17. The exchange, sale, or gratuitous cession of prizes or spoils of war are prohibited in the waters and harbors of Belgium.

ART. 18. All acts of hostility are forbidden on the part of foreign war vessels in Belgian waters.

ART. 19. Should men-of-war or merchant vessels of two nations in a state of war happen to be at the same time in a Belgian harbor or waters, there shall occur an interval of at least 24 hours, fixed by the competent authorities, between the departure of a vessel of one of the belligerents and the subsequent departure of a vessel of the other belligerent.

In this case an exception may be made in regard to the prescriptions of Article 8.

Priority of request secures priority of sailing.

However, the weaker of the two vessels may be allowed to sail first.

ART. 20. The government reserves the right to modify the provisions of Articles 8 and following of the present order, with the view to taking, in special cases and under exceptional circumstances arising, all measures which the strict observance of neutrality might render opportune or necessary.

ART. 21. In case of a violation of the provisions of the present order, the local authorities designated by the government will take all the means prescribed by special instructions, and will, without delay, notify the government, which will lodge with the foreign Powers the necessary protests and claims.

Special Provisions in Case of Army Mobilization.

ART. 22. As soon as the mobilization of the army is ordered all foreign men-of-war are forbidden to anchor in the Belgian waters and harbors of the North Sea without previous authorization from the government, except in case of dangers of the sea, shortness of supplies, or serious damage.

Except in cases of major necessity, as above described, no pilot shall be furnished to said vessels if they have not previously obtained the required authorization.

In what concerns the Belgian waters of the Scheldt, when permission to enter them shall have been granted, in those circumstances the sub-inspector of Belgian pilotage at Flushing will notify the commander of the vessel that he must stop off Fort Frederic to communicate that permission to the representative of the military governor of the post of Antwerp, who will be provided with the necessary instructions.

The Belgian flag is hoisted on the old Fort Frederic in a conspicuous place for approaching vessels.

Final Arrangements.

ART. 23. A copy of the present order will be handed by the naval authorities to the commander of every man-of-war or privateer as soon as he shall have been authorized to anchor in Belgian waters.

Given at Brussels, *February 18, 1901.*

BRAZIL.

There are no restrictions as to the number of men-of-war under one flag that may visit any port at one time, nor as to the duration of such visit. There are no closed ports in this country.

Foreign men-of-war are not permitted to carry on target practice with guns or torpedo practice in the territorial waters of Brazil.

BULGARIA.

All vessels desiring to put in at the port of Varna, must stop at 43°3' north latitude and 27°58'3" east longitude and await the arrival of the pilot tug.

Vessels may enter and leave the port from sunrise until sunset. A tug boat will leave the port each morning at dawn and will pilot the ships arriving at as well as those leaving the port.

Vessels desiring to leave the port in the evening must leave the dock one hour before sunset.

All navigation is forbidden on the sea between the shore, 43°5' and 43°18' north latitude and 28°10' east longitude.

CHILE.

There are no restrictions as to the number of men-of-war under one flag that may visit any port at one time, nor as to the duration of such visit. There are no closed ports in this country.

CHINA.

There are no regulations governing the entrance of foreign men-of-war into the ports of China, and no restrictions on the number of men-of-war under one flag that may enter any one port at the same time, or on the length of stay at one port.

COLOMBIA.

There are no restrictions as to the number of men-of-war under one flag that may visit any port at one time, nor as to the duration of such visit. There are no closed ports in this country.

COSTA RICA.

There are no restrictions as to the number of men-of-war under one flag that may visit any port at one time, nor as to the duration of such visit. There are no closed ports in this country.

CUBA.

There are no restrictions as to the number of men-of-war under one flag that may visit any port at one time, nor as to the duration of such visit. There are no closed ports in this country.

DENMARK.

15 January, 1913.

ARTICLE I. Warships of foreign nations are allowed, without previous notice, to navigate Danish waters and anchor in the same with the exception of inland waters, the harbor of Copenhagen, and closed waters. (See Arts. III, IV, and V.)

ART. II. With the exceptions mentioned in this article, foreign warships are permitted, without previous notice, to anchor for a short stay in the Danish harbors situated immediately on the natural routes of traffic passing through the Kattegat, the Sund, the Great and the Little Belt, and the ports of the Bornholm Island.

A stay of longer than 48 hours, as well as a visit from a squadron or a visit to Fredericia, Nyborg, Korsor, or Helsingor, should be previously announced diplomatically. (See, however, Art. VI.)

ART. III. Foreign warships shall be allowed to anchor in or navigate Danish inland waters or anchor in the harbors of the Danish Monarchy, other than those mentioned in Article II, first paragraph, provided previous notice has been given through diplomatic channels. (See, however, Arts. IV, V, and VI.)

The inland Danish waters include, besides the ports, entrance to ports, harbors, and bays, the territorial waters situated between and inside the islands, islets, and reefs not permanently under water.

The following are especially considered as inland waters:

The fiords of the eastern coast of Jutland.

The waters south of Fionia with the following inlets:

The pass between Langeland and Fionia.

The pass between Langeland and Aero Island.

The pass between Aero Island and Lyo Island.

The pass between Lyo Island and Fionia.

Odense Fiord.

The waters west and north of the line Hasenore-Samsø-Endelave-Bjornsknude.

The waters of the east of the Island of Seiro.

That part of the Danish territorial waters of Kattegat, Sund, Great and Little Belt, which form the natural route of traffic between the North and Baltic Seas is not included in the inland waters. (See, meanwhile, Art. II.)

ART. IV. Warships of foreign nations are permitted to navigate or anchor in the port or harbor of Copenhagen when previously authorized. A previous notice through diplomatic channels shall be sufficient, provided Hollaenderdybet and Drogden passes are understood. (See Art. VI.)

The roads of Copenhagen are limited to the north by a line drawn from the port of Taarbaek to the luminous buoy "Taarbaek Rev," and from the latter point to the location of the luminous buoy "Salt-

holm Nord-Est," to the east by a line drawn from the location of said buoy to the entrance in the north end of the Island of Saltholm and from that point along the western littoral of Saltholm to the south end of that island; to the south, by a line drawn from that last point to the station of the fireship *Drogdens-Fyrskib*, thence to the position of the beacon "Aflandshage" (red beacon with twin brooms), and from the last point to the coast of Seeland in line with said beacon toward the steeple of Vallensbaek in the Island of Seeland.

ART. V. The inland waters named below are regarded as closed to foreign warships, and permission to anchor will be only delivered to the ships mentioned in Article VI.

Isefjord and its entrances.

Limfjord and its entrances.

The waters called Smaalandsfarvandet and the following entrances:

Agersosund.

Omosund.

The pass between the Omo and Lolland Islands.

Guldsborgsund.

Gronsund.

Bogestrommen.

ART. VI. The restrictions of Articles II, second paragraph, III and IV are not applicable:

(a) To ships having on board chiefs of state or their official representatives, or members of a reigning family, or ships escorting such vessels.

(b) To vessels in distress.

(Confirmed by His Majesty the King, *January 15, 1913.*)

DENMARK PROTECTORATES.

Only one annual notification to the Danish Government will be required for visits by foreign men-of-war to the following territorial waters:

1. For passing to the west and north of the Island of Samsø;
2. For admission of schoolships and fishery inspection ships to harbors in Iceland and the Faeroe Islands;
3. For admission of fishery inspection ships to Esbjerg, and
4. For the admission of warships to harbors and roadsteads in the Danish West India Islands.

Copenhagen, *February 1913.*

ST. THOMAS.

It is no longer necessary to make, through diplomatic channels, the annual notification to the Danish Government of the names of the vessels of the United States Navy which may be expected to visit the ports and roadsteads of the Danish West Indies.

It will be sufficient if the American consul at St. Thomas communicates to the governor of the Danish West Indies the names of the United States men-of-war which may be expected to visit those islands during the course of the year.

ECUADOR.

There are no restrictions as to the number of men-of-war under one flag that may visit any port at one time, nor as to the duration of such visit. There are no closed ports in this country.

FRANCE.

In Time of Peace.

21 May, 1913.

ARTICLE 1. The term "man-of-war" shall be considered as applying not only to all the ships designated as such in the recognized sense of this word, but likewise to auxiliary ships of all sorts.

ART. 2. For the application of the present rules:

1. The home shores are divided into sectors, the limits of which are as follows:

Channel sector: From the Belgian frontier to Point Primel.

Atlantic sector: From Point Primel to the Spanish frontier.

Mediterranean sector: From the Spanish frontier to the Italian frontier (Corsica is comprised in this sector).

2. Tunisia, Algeria, and the Moroccan protectorate form a single sector.

ART. 3. In time of peace foreign men-of-war are permanently authorized to visit the French ports and those of the protectorates, to anchor in the territorial waters at a distance less than 6 miles, from low-water mark, under reserve that the number of these ships flying the same flag does not exceed three per sector.

The ships which are already in a sector will be taken into account in

determining the number of ships that can be simultaneously admitted therein.

The notifications of a proposed visit should, however, always be transmitted through the usual diplomatic channels, so as to be received, if circumstances permit, at least 7 days before the date of the proposed visit.

Foreign men-of-war cannot remain over 15 days in the ports and territorial waters. They shall go to sea within 6 hours should they be so requested by the naval authorities or by the *commandants d'armes*, even in case the delay fixed for their stay may not have expired.

ART. 4. A special authorization of the Government of the Republic, obtained through the usual diplomatic channels, is necessary, as much for the prolongation of the duration of stay as for the admission of a number of ships in excess of that specified in Article 3.

ART. 5. The prescriptions of articles 3 and 4 do not concern:

(a) Men-of-war and ships on board of which are embarked chiefs of states, members of reigning dynasties or their suites, diplomatic officers accredited to the Government of the Republic;

(b) Men-of-war which are compelled to put into port on account of damages, bad weather, or other unforeseen causes;

(c) Ships charged with the surveillance of fisheries, in accordance with the conventions concerning such fisheries.

ART. 6. In the ports, capitals of naval districts, or seat of a *commandement de la marine*, the right to assign berths to foreign men-of-war and to have them shift berth, if necessary, is assigned exclusively to the maritime prefect or the *commandant de la marine*.

In all the other ports this right is assigned to the captain of the port.

ART. 7. Upon entering a port, foreign men-of-war will be boarded by a naval officer, sent by the maritime prefect or the *commandant de la marine*, or by a port official, sent by the captain of the port, who will present to the commanding officer the courtesies of the port.

The officer will inform the commanding officer of the berth which has been assigned to his ship; he will inform himself of the object and the proposed duration of the visit, of the name of the commanding officer, and all information that it is customary to collect on such occasions.

In case the officer charged with welcoming the foreign men-of-war should arrive on board after the same had anchored or moored, he should,

nevertheless, make his communication and the prescribed inquiries; he will likewise confirm the berth already taken or will assign another.

In anchorages where there is no captain of the port, and in the absence of a French ship, the foreign man-of-war will be boarded by a custom-house officer.

ART. 8. Foreign men-of-war which put into a port or enter territorial waters are under the obligation of respecting the fiscal laws and the laws and regulations of the sanitary police.

They are also under the obligation of complying with all the regulations of the port governing ships of the national navy.

With this object, the local maritime authorities will furnish the commanding officer with all the information necessary concerning the port regulations.

Foreign men-of-war within the territorial waters are forbidden to make surveys, to take soundings, to send landing parties ashore, or to hold target practice without having obtained permission.

No submarine work, performed with or without a diver, shall be performed without previously advising the maritime authorities.

The crew and marines shall be without arms when they land. Officers and noncommissioned officers may wear side arms forming part of their uniform.

The number of liberty men who may go ashore, the hours for going ashore and returning on board will be fixed by agreement with the local civil authorities and the *commandant d'armes*.

Boats circulating about the ports and territorial waters shall not be armed.

No foreign man-of-war shall execute a sentence of death within territorial waters.

In case that funeral honors should be rendered on shore and that the commanding officer desires that the cortège be accompanied by a detachment under arms, he should request authorization of the *commandant d'armes*.

ART. 9. The conditions of access and stay of belligerent foreign men-of-war is regulated in accordance with the prescriptions of the decree of October 18, 1912, always remaining subordinated to the formalities of notification or of previous authorization, specified in Articles 3 and 4 of this decree, excepting in cases of uncontrollable circumstances, provided for in paragraph *b* of Article 2.

ART. 10. In case a foreign man-of-war does not conform to the rules

laid down in this decree, the naval or the local military authority will first draw the attention of the commanding officer to the violation committed and will formally request him to observe the regulations.

Should this be unavailing, the proper authority, *préfet maritime*, *commandant de la marine* or *commandant d'armes* may invite the foreign man-of-war to immediately leave the port or the territorial waters.

(Done at Paris, May 21, 1913.)

In Time of War.

26 May, 1913.

ARTICLE 1. In time of war the conditions of entrance and of stay of vessels other than French warships in the anchorages and ports of the French seacoasts and of dependent countries are covered by the dispositions specified in the following articles:

ART. 2. No French merchant ship, no foreign man-of-war or merchant ship may approach, without exposure to destruction, the shores of French territorial waters or of French dependencies nearer than 3 miles, without having been authorized to do so.

This prohibited zone is extended to 6 miles off shore from bases of operations of the fleet between the limits fixed hereafter with reference to each:

Cherbourg.—From the meridian of Cape Levi to the meridian of Point de Jardeheu.

Brest.—From the parallel of the Four Lighthouse to the parallel of Point Raz.

Toulon.—From the meridian of Bec-de-l'Aigle to the meridian of Cape Benat.

Bizerta.—From the meridian of Raz Enghela to the meridian of Cape Zehib.

ART. 3. Between sunrise and sunset every vessel covered by the present decree must show its national colors and its number in the international code if it possesses one, from the moment it approaches the prohibited zone. Should it desire to enter it makes the request to do so by hoisting the pilot flag, but it remains outside of this zone until entrance has been granted by semaphore, a signal station, or boarding vessel.

A reply of a semaphore or a signal station is made by the following signals of the international code:

Flag S: Entrance granted.

Pennant D: Entrance deferred.

Flag Q. Entrance prohibited.

Should the request be granted, the vessel enters at reduced speed the prohibited zone, keeping the pilot flag flying.

If the entrance is deferred, the vessel maneuvers in such a way as to keep clear of the entrance of the channel, awaits the boarding vessel and steams toward it at reduced speed as soon as seen.

Should the entry be prohibited, the vessel should renounce its efforts to enter and should take up another anchorage.

The boarding vessel is indicated by three balls hoisted on the same hoist.

ART. 4. Between sunset and sunrise every vessel covered by the present decree must show its national colors and have its running lights lighted from the moment it approaches the prohibited zone. Should it desire to enter, it makes the request to do so by burning one or more Bengal lights, accompanied by blasts of the whistle or siren, but it remains outside of the zone until the authorization to enter has been granted by the boarding vessel.

The ship with its running lights burning awaits the boarding vessel, burning, if necessary, more Bengal lights to draw its attention, and if it has not been signaled may steer toward it at reduced speed upon sighting.

The boarding vessel is indicated by three red superposed lights.

A red Coston light burnt from a post on shore signifies that entrance is prohibited; the vessel should then renounce its efforts to enter and should take up another anchorage.

Between sunset and sunrise it is forbidden, in principle, to all ships covered by the present decree to request entrance to the zone situated off the bases of operation of the fleet: Cherbourg, Brest, Toulon, Bizerta, defined in Article 2; the only cases where commanding officers may request entrance being the following:

Vessels authorized to do so by the government, either at their departure or while en route.

Vessels in danger and in the absolute impossibility of awaiting daylight at sea or of taking up another anchorage.

ART. 5. In case of fog, all vessels covered by the present decree desiring to enter a prohibited zone hoist the same signals as in clear weather and blow blasts of the whistle or the siren until authorized to enter by a boarding vessel.

Access to the bases of operation of the fleet: Cherbourg, Brest, Toulon, Bizerta, is prohibited in case of fog under the same conditions as those specified in Article 4.

ART. 6. Every vessel covered by the present decree is required to instantly obey all injunctions of a man-of-war, a boarding vessel, a semaphore, or a signal station, made by word of mouth, by international signal code, or by a warning shot.

Every vessel warned by a battery or by a man-of-war should, whatever its distance from shore, stop immediately, checking her headway. After having stopped, every ship warned may renew its request for entrance, but it should await where it is such orders as may be given.

If in spite of a warning shot a vessel does not stop on the spot, there shall be fired two minutes later a shotted gun, and if in a new interval of two minutes the vessel has not stopped and checked its headway, fire shall be opened directly against it. In case of urgent necessity, the blank warning shot may be suppressed. At night the shotted gun may likewise be suppressed, and every vessel penetrating a prohibited zone without authority exposes itself to destruction without previous warning.

ART. 7. Vessels authorized to enter French roadsteads or ports, or those of the French protectorates, should take up the anchorages indicated to them by the local authorities and should conform strictly to the regulations of whatever nature issued by such authorities. The length of the stay will remain subordinated to the necessities of a military nature, and when circumstances require, ships may be required to go to sea or to withdraw to an indicated point; this order should be carried out without delay. An extension may, however, be granted to vessels which find it justifiably impossible to immediately comply. No vessel may get underway, either to shift berth or to leave the roadstead, without having received permission from the local authorities to do so. The request may be made by the signal flag S.

ART. 8. In military roadsteads and ports, between sunset and sunrise, all movements of boats other than those belonging to French men-of-war are absolutely prohibited. From sunrise to sunset such movements are authorized only for boats to which the naval authorities shall have delivered permits for special circulation and means of identification.

The boats authorized should keep away from men-of-war if they are

enjoined to do so, and in no case may they go alongside without having received permission to do so. The circulation of these boats, moreover, remains subject to local orders, notably referring to the prohibition of entering certain parts of the roadstead and of approaching from any other direction than those expressly designated.

In commercial ports similar measures will be taken by the local authorities to impose upon the circulation of the boats the restrictions deemed necessary, always taking into consideration the interests of commerce.

ART. 9. Visits of neutral men-of-war remain subject, in so far as previous notification or authorization are concerned, to the prescriptions of the decree of May 21, 1913, the conditions of entrance and of stay being regulated by the present decree.

ART. 10. The measures contemplated by the present decree will be applicable from the moment of mobilization or after special advice.

ART. 11. All infractions of the present decree, in addition to the risk of destruction entailed, will bring about such measures of suppression as the circumstances require.

ART. 12. Dispositions contrary to the present decree are abrogated.

ART. 13. The Minister of Marine is charged with the execution of the present decree.

(Done at Paris, May 26, 1913.)

Belligerent Men-of-War.

18 October, 1912.

ARTICLE 1. In case of a war between two Powers, in which the Government of the French Republic shall have decided to remain neutral, the following provisions will be applied in all ports, roadsteads and territorial waters of the republic or those under its jurisdiction.

ART. 2. For the application of the precepts of the 13th Hague Convention dated the 18th October, 1907:

The French territorial waters shall extend out to a limit which is fixed at ten nautical miles (11,111 m.) to sea from low water mark, along the entire length of the coast and the exposed neighboring shoals, as well as around the fixed buoys which mark the limits of unexposed shoals. For the bays, the radius of 11 kilometers shall be measured from a right line drawn across the bay, in the part nearest the entrance, at the first point where the opening does not exceed 10 miles. If the distance from

the French coast or shoals to the nearest point of the coast or shoals of a foreign state is less than 22 kilometers, then the French territorial waters shall extend only to a point half way between these coasts or shoals.

ART. 3. The maximum number of men-of-war—battleships, armored cruisers, protected cruisers, armed transports or scouts of a belligerent—that may be present at the same time in a French port or roadstead will be four.

ART. 4. In addition the vessels of the flotillas,—destroyers, torpedo-boats and submarines—will be admitted in group, following their normal organization. Their number cannot, nevertheless, be more than 12.

ART. 5. War vessels of belligerents, with the exception of those which are engaged solely in a religious, philanthropic or scientific mission, cannot remain in French ports, roadsteads or territorial waters for more than seventy-two hours. In this length of stay is included the time necessary for administrative formalities and for interviews with contractors having in view the possible loading of fuel.

ART. 6. If after the receipt of the notification of the opening of hostilities by the Government of the Republic, or after a state of war has become generally known, a belligerent man-of-war finds itself in a French port or roadstead or in French territorial waters, it shall be notified that it must leave within a period of seventy-two hours counting from the said notification.

ART. 7. Men-of-war of belligerents cannot prolong their stay in the ports of the republic beyond the legal period except in case of damage or by reason of the state of the sea. They must depart as soon as the cause of the delay shall have ceased to exist.

ART. 8. Belligerent vessels cannot re-victual except for the purpose of completing the supply of provisions and consumable stores normally carried in times of peace.

In the matter of fuel they will be permitted to replenish their bunkers, properly so-called, to their full capacity.

ART. 9. The belligerent vessels will be authorized to use certified pilots.

ART. 10. Access to the ports and roadsteads of France will be permitted to prizes, whether escorted or not, when they are brought there for safe-keeping pending the decision of a prize tribunal.

ART. 11. The Minister of Foreign Affairs and the Minister of Marine

are charged, each in that which concerns him, with the execution of the present decree.

Done at Rambouillet, 18 October, 1912.

By the President of the Republic
The President of the Council.
Minister of Foreign Affairs,
M. POINCARÉ.

A. FALLIÈRES.
The Minister of the Navy,
DELCASSÉ.

COLONIES.

30 August, 1913.

In view of the decree of the 26 May, 1903, forming the colonial group from a military point of view, modified by the decree of the 17 February, 1909;

In view of the decree of the 18 October, 1912, making applicable in the ports, roads and French territorial waters Articles 11, 12, 13, 14, 15, 19, and 23 of the thirteenth Convention of The Hague, concerning the rights and duties of neutral Powers in case of a maritime war;

In view of the decree of the 26 October, 1912, making applicable to French possessions under the Colonial Department the provisions of the before-mentioned decree;

In view of the decree of the 21 May, 1913, making regulations for the visits of foreign men-of-war, in time of peace, to the anchorages and ports of the French coast and of the protectorate countries;

Considering the advice of the Minister of the Navy;

On the report of the Colonial Minister,

Decreed:

ARTICLE 1. The provisions of the decree of the 21 May, 1913, making regulations, in time of peace, for the visits of foreign men-of-war to the anchorages and ports of the French coast and of the protectorate countries are made applicable to the French possessions controlled by the Colonial Minister, with the following restrictions.

ART. 2. For the application of the present regulations, the possessions referred to are divided in sectors. Each colonial group, which has been constituted by the decree of the 26 May, 1903, modified by the decree of the 17 February, 1909, cited above, constitutes a sector.

ART. 3. The delay of seven days fixed by paragraph 3, Article 3, is extended to thirty days for visits made to the ports and harbors situated in the colonies.

ART. 4. At anchorages where there is not a captain of the port, if

no vessel of war is present, the foreign man-of-war is boarded, under the conditions provided for in Article 7, by the army commandant or a functionary designated by the highest local civil authority.

ART. 5. The Colonial Minister is charged with the execution of the present decree, which will be inserted in the Official Journal of the French Republic and published in the Official Bulletin of the Colonial Minister.

Done at Sampigny, 30 August, 1913.

GERMANY.

18 August, 1911.

I. Warships and other vessels of war of foreign Powers do not require any special permission for putting into fortified and unfortified German ports and river mouths, and for navigating inland waters. Timely information of the visit in prospect, communicated through diplomatic channels, is, however, required. Without such notice foreign vessels of war will not be allowed to pass within the outermost line of fortifications, nor to remain within the roadstead, or harbor, or in river mouths and inland waters, with the exception of the cases mentioned in Paragraph II. As regards the use of the Kaiser Wilhelm Canal, see Paragraph III.

The number of vessels of war of the same foreign power that will be allowed to stay at the same time in a fortified or unfortified port will generally be restricted to three. For an exception to this rule consent will be necessary, obtained through diplomatic channels.

II. The above rules will not be applied:

(a) To such ships as may have on board sovereigns, members of the families of sovereigns, presidents of republics or their suites, or the ambassadors or envoys at the court of His Majesty the Emperor;

(b) To such ships and vessels as may be compelled by stress of weather or injury to put in to a German port.

III. Foreign vessels of war must not pass through the Kaiser Wilhelm Canal unless permission to do so shall have been obtained through diplomatic channels.

IV. In such ports as are fortified or occupied by a garrison, without being stations of a chief of naval station, the commander of pilots or the harbor master shall, without delay, inform the officer in command of the approach and arrival of any foreign warship. At Neufahrwasser

the commander of the pilots shall at the same time inform the superintending director of the dockyard at Danzig.

The officers in command shall directly inform, by telegraph, the general headquarters of the army corps concerned, the headquarters of the naval station of the North Sea or Baltic Sea, the admiral staff of the navy, and the navy office of the arrival of foreign warships or vessels of war.

In such ports as are not occupied by any garrison, the police authority shall inform by telegraph the authorities mentioned of the arrival of any foreign warships or vessels of war.

V. Only the chief of naval station or officer in command, as the case may be, is authorized to assign foreign warships and vessels their anchorage places, and to require them to shift them if necessary. He shall come to an understanding with the customs authority in order to be able to pay due regard to the interests of the latter when assigning anchorage berths.

VI. The pilots at the fortified ports must be instructed whether any foreign warships, or which and how many, may put in without having obtained permission beforehand, or whether such permission must be previously obtained, and where the ships are to be anchored or moored. The officer in command, moreover, as far as the interests of the navigation police or harbor police are involved, shall obtain the opinion of the commander of pilots or the harbor master and observe it as far as practicable.

VII. Ships and vessels of foreign navies are not obliged to take a pilot for putting into a roadstead or anchorage. Within the lines of fortification of a German port, however, they are subject to the police regulations of the same.

VIII. If the harbor police regulations are violated by a foreign warship or vessel, the attention of the commander of the ship must first be called to the fact and careful observance of such regulations be insisted upon. Should such steps not be sufficient, the competent authority, in case of imminent danger, shall interfere according to his own discretion, or, if it is not a case of urgency, obtain the directions of superior authority.

IX. When a foreign warship, vessel, or squadron crosses the line of fortifications from seaward an officer will be sent them. If the place does not belong to the imperial war ports, such officer will be accompanied by the commander of pilots or the harbor master.

X. The officer will inform the commander of the ship, or squadron, whether it may touch and how long it may stay in the roadstead or harbor. The officer, or the commander of pilots or harbor master will, if proper, indicate to the commander of the ship or squadron the place of anchorage and inform him of the pertinent provisions of the harbor-police regulations. The officer of the ship or squadron, the names of the ships, the strength of their armament and complements, the port of departure, the purpose of the visit, the intended length of stay, and the sanitary state of the complement. If the commanding officer of the ship or squadron acquaints this officer of his intentions to stay in the roads or to put into the harbor, the officer will offer himself to accompany an officer to be sent to the chief of station or to the officer in command for reporting.

XI. When, in case of exception, a foreign warship or vessel crosses the line of fortification from seaward at night, the welcoming officer will not be sent until the following morning. The ship may anchor at will, or, in case she took a pilot, according to the direction of the latter, but she will be obliged to change her anchorage as soon as requested to do so by the commander of station or officer in command.

XII. In case the officer sent for welcoming should not arrive on board a foreign warship or vessel entering in the daytime until she has already anchored or made fast, the prescribed welcoming, information, and inquiries, as well as the subsequent confirmation of the anchoring place chosen or the assigned or some other anchorage place, will take place nevertheless.

XIII. When the officer in command of a foreign warship or squadron does not show to the officer, sent to welcome him, his willingness to send an officer to report the ships to the chief of station or to the officer in command, the former officer will at once return and report to the chief of station or to the officer in command.

XIV. When the harbor fortification is possessed of a sufficient garrison, a saluting battery will be established. This battery will fly the German war flag. The flag will be shown as soon as a warship may approach. The salute fired by foreign warships or vessels before anchoring, or in exceptional cases, later on, will, after the last shot, at once be returned by that battery, gun for gun. The foreign warships will be informed thereof by the pilots they may employ.

XV. When a foreign warship or vessel, after having been informed by

an officer by order of the chief of station or officer in command, that she may not be allowed to cross the line of fortification or some other limit situated within the roadstead or harbor, does, notwithstanding, continue on her course, without being compelled to do so by stress of weather or injury, to be indicated by the usual signals, she will first be warned by the works of the harbor fortifications by two rounds, the first of which shall be directed 400 meters clear of the ship, the second 200 meters. When, nevertheless, the ship shall continue on her course, the gun fire of the harbor fortifications will be directed first against her masts, and then against her hull.

The same proceeding will take place when the ship has anchored within the range of the fortress guns, and after having been informed by the chief of station that she may not be allowed to remain any longer within the harbor or roadstead, refuses to leave her anchorage.

When a ship, notwithstanding such notification, moves or anchors within the line of fortification but out of reach of the fortress, the chief of station, or the officer in command, is authorized to take any other steps to drive the ship away.

XVI. In case of a foreign warship or vessel putting into an unfortified harbor, the harbor-police authorities will obtain the information prescribed in Paragraph X, and will, without delay, report it to the senior of the garrison in the harbor, or otherwise to the provincial police authority. The competent general headquarters of the army and the headquarters of the naval station of the Baltic Sea, or North Sea, respectively, will at once be informed of the report.

GERMAN PROTECTORATES.

15 April, 1913.

1. For calling at the ports and river mouths of the German protectorates warships and warcraft of foreign Powers need no special permission. However, there must be transmitted in due time, through diplomatic channels, a notification regarding the visit, which shall contain the date and object of the visit, its duration, and the names of the places at which calls will be made. This notice should be given early enough to make it possible for the governor of the protectorate to make arrangements for the contemplated visit.

2. The number of warships and warcraft belonging to the same foreign nation that are permitted to stay in a German protectorate at

the same time is, as a rule, limited to three. Permission for exceptions to this practice must be requested through diplomatic channels.

3. The warships and warcraft are required to observe the wishes of the authorities of the protectorate with reference to not calling at certain places.

4. In visits to the protectorates in the Pacific Ocean warships and warcraft must first call at the principal port. The following shall be regarded as principal ports:

Rabaul, for the Bismarck Archipelago and Kaiser-Wilhelmsland (German Papua); Ponape, for the Marshall Islands and the Eastern Caroline Islands; Yap, for the Western Caroline, Mariana, and Palau (Pelew) Islands; and Apia, for Samoa.

5. The foregoing regulations do not apply:

(a) To ships and other vessels that have on board sovereigns or members of sovereigns' families or presidents of republics or their suites.

(b) To ships and other vessels which are obliged by perils of the sea or by accident to call at one of the ports of a protectorate.

(c) To ships and other vessels which are stationed at the neighboring possessions of foreign Powers and are accustomed to make regular calls at certain ports of a German protectorate.

6. Foreign warships and warcraft shall be treated like German warships with respect to laws and ordinances relating to the police, sanitation, and fiscal matters.

(Done at Bad Homburg v. d. Höhe, Apr. 15, 1913.)

Belligerent War Vessels.

14 May, 1913.

1. With reference to the admission of warships there shall apply Articles 1 to 3 of the Regulations regarding the Admission and Treatment of Foreign Warships in the Harbors and Waters of the German Coasts, of May 24, 1910. They read as follows:

ARTICLE 1.

War vessels (warships and war craft) of foreign powers require no special permission for calling at fortified and unfortified German harbors and river mouths and for the navigation of inland waters. Nevertheless a notice of the impending visit must be transmitted in good time through diplomatic channels.

Without this, foreign war vessels, with the exception of the cases given in Article 2, may neither cross the outermost line of defense (fortification) nor stop in roads,

harbors, river mouths, or inland waters. With reference to the use of the Kaiser Wilhelm Canal, see Article 3.

The number of war vessels belonging to the same foreign nation that are permitted to stop at the same time in a fortified or unfortified harbor, etc., is, as a rule, limited to three. Exceptions require permission requested through diplomatic channels.

ARTICLE 2.

The foregoing regulations do not apply:

(a) To vessels that have on board sovereigns, members of families of sovereigns, presidents of republics or their suites, or ambassadors or envoys to the court of His Majesty the Kaiser;

(b) To vessels which have been obliged by danger of sea or by accident to stop in a German harbor, etc.

ARTICLE 3.

For passage through the Kaiser Wilhelm Canal foreign war vessels require previous permission transmitted through diplomatic channels. In case a previous notice through diplomatic channels is not possible, it is to be communicated without delay through the local authorities.

2. Registered pilots may be granted (*geusztanden*) only for a direct trip from the sea into a harbor or for a direct trip from the harbor to the open sea.

3. In the waters under German sovereignty war vessels of belligerents are obliged to refrain from all hostilities, including capture, interception and the practice of the right of search. Neither may they hold any prize court therein.

4. Within the ports and roads they may repair injuries only to such an extent as is necessary for their safety of navigation, but they may neither repair, strengthen nor increase their military stores or armament nor enlarge their complements nor in any other way heighten their military power.

5. At each visit they may replenish their supplies of coal to the full capacity of their bunkers. They may also increase their stores of food and drink and of anything else necessary for the peaceful operation of the ship.

6. They must leave waters under German sovereignty 14 days at the latest after their arrival therein or, in case they have to remain longer in order to carry out such work as is specified in Article 4, immediately after the completion of the said work.

In case the weather should make it impossible for them to leave then, or in case the conditions set forth in Article 9 should come into effect,

permission to remain will be extended for the necessary length of time.

7. In the harbors which are situated in the immediate neighborhood of the seat of war,¹ Article 6 applies, with the sole change that the words "24 hours" shall be substituted for "14 days."

8. The provisions of Articles 6 and 7 do not apply to war vessels which are engaged exclusively in religious, scientific, or philanthropic work.

9. If there should be present simultaneously in the harbor or roadstead war vessels of both belligerents, at least 24 hours must elapse between the departure of ships of one belligerent and that of ships of the other. In case both parties have at the outset chosen the same day for departure the order of their departure shall be determined by that of their arrival.

Warships of a belligerent may not leave a harbor or a roadstead less than 24 hours after the departure of a merchant vessel flying the flag of the enemy of the said belligerent.

10. Prizes may put in only:

(a) On account of unseaworthiness, or bad weather, or on account of deficiency in fuel or supplies, in which cases they must leave again as soon as the cause that justified their putting in has been removed;

(b) When they are to be allowed to remain in the harbor until the prize court has made its decision, in which case they must be given over to the neutral German authorities for safe keeping.

Issued at the New Palace, *May 14, 1913.*

GREECE

There are no regulations published by the government upon the subject of visits of foreign men-of-war to the ports of Greece, and there is no limit to the number of men-of-war under one flag that may visit any port at the same time or to the length of time they may remain in port.

As a matter of courtesy, in case a single ship intends to visit a Greek port, the authorities of the port should be notified of the fact through the American consul, and if a fleet or squadron desire to visit any port the matter should be arranged beforehand through the American legation at Athens.

¹ When the case arises the Imperial Chancellor will enumerate the ports here indicated.

GUATEMALA.

There are no restrictions as to the number of men-of-war under one flag that may visit any port at one time nor as to the duration of such visit. There are no closed ports in this country.

HAITI

There are no restrictions as to the number of men-of-war under one flag that may visit any port at one time nor as to the duration of such visit. There are no closed ports in this country.

HONDURAS.

There are no restrictions as to the number of men-of-war under one flag that may visit any port at one time nor as to the duration of such visit. There are no closed ports in this country.

ITALY.

*24 May, 1906.*¹

ARTICLE 1. Warships belonging to friendly nations are permitted to anchor on the entire Italian coast subject to the restrictions imposed by Articles 2, 3, 4, and 5, except that the right is reserved, if the case should arise, to prohibit them altogether from approaching the coast, in conformity with the rights of nations.

ART. 2. In fortified maritime places foreign warships shall not remain for a period exceeding eight days, nor shall more than three foreign warships of the same nationality assemble in any of the anchorages enumerated below.

The above-mentioned limitations may be exceeded only in case of distress, or after formal permission has been obtained from the Royal Government through diplomatic channels.

When a foreign naval force composed of a larger number of ships enters a maritime place, the local naval authority shall at once notify the commander in chief of such force of the provisions contained in the first paragraph of this article, so that he may send off the ships in excess of the number specified.

Foreign warships may also be prohibited, in the interest of the national defense, from passing through or remaining in certain localities of the territorial waters which may be designated in particular cases.

¹ As amended in Art. 3, by decree of February 5, 1914.

Such prohibition, whether temporary or permanent, shall be published in the same manner as hydrographic notices concerning navigation, and the semaphores, signal stations, and national warships in the vicinity of such localities shall notify foreign warships which may pass in their vicinity, by international signaling methods, of such prohibition.

ART. 3. The following localities are naval ports: Vado (Savona), Genoa, Spezia, Monte Argentario (Talamone and Port San Stefano), Gaeta, La Maddalena and adjacent islands and the Sardinian coast, Messina and adjacent anchorages on both sides of the straits, Taranto, Brindisi, Venice and the anchorages of the lagoon.

Salutes must be exchanged between the above mentioned ports (excepting Vado and Monte Argentario) and foreign ships approaching the respective anchorages and in condition to return the salute.

This obligation is extended also to the anchorages of Naples, Palermo, Ancona and Tripoli, as well as any other national or colonial anchorage in which there is a royal ship in condition to return the salute.

ART. 4. Foreign warships at anchor in the foregoing localities are bound to put to sea whenever requested to do so by the Royal Government, even though the period of time allowed by Article 2 may not have expired since their arrival.

ART. 5. Upon the arrival of a foreign warship in a harbor or roadstead of the state, the naval authority shall assign an anchoring place to her on the basis of local regulations; in the absence of such assignment the ship shall be at liberty to anchor where she may deem best.

Upon entering or leaving the anchorage of a fortified maritime place within the limits of the defense such ship, upon receiving a request to that effect from the naval commandant of the place, shall be bound to accept the guidance of an officer or other person sent by said commandant for that purpose, and comply with his instructions as regards the route to be followed for entering and leaving the anchorage. Such service is gratuitous and no responsibility shall attach to the Royal Government and to its subjects for any injuries which the ship may sustain, and is entirely distinct from the service of ordinary pilotage, which may be asked for by the ships themselves by means of the prescribed signals, or offered by the local pilots, or which may be obligatory owing to peculiar local conditions.

ART. 6. The naval officer or harbor official charged with meeting a foreign warship or naval force upon arrival in a harbor or roadstead of the state in order to point out the anchoring place to be occupied by

such ship or naval force, after the sanitary formalities have been complied with, shall transmit to the commanding officer of the ship or to the commander in chief of the naval force a copy of the annexed interrogatory, in order that he may enter thereon the information it asks for and affix his signature thereto.

He shall also transmit to the commanding officer or commander in chief a copy of this decree, so that the latter may take cognizance thereof.

If a ship or naval force is not admitted to free pratique the officer or official designated confines himself to transmitting a copy of this decree to the commanding officer of the ship or the commander in chief of the naval force, who, observing the sanitary precautions prescribed, shall send the medical officer or another representative to the local health office to furnish the necessary information for filling out the interrogatory and to be advised of the sanitary treatment to which the ship or ships must be subjected.

ART. 7. Foreign warships anchoring at any point of the Italian coast are bound to respect the police, health, and customs laws in force and to conform to all the harbor regulations to which the ships of the Royal Italian Navy are subject.

To that end the local naval authorities shall furnish to the commanding officer or commander in chief all necessary information.

ART. 8. In every maritime place or military port the national flag shall be kept flying from one of the fortification works from 8 o'clock in the morning until sunset.

The national flag shall also be kept flying temporarily from the period stated to beyond the hours specified, provided its colors can be distinguished, when a warship is in sight and under way, and whenever a warship in sight has her colors displayed.

ART. 9. No ship shall make surveys and carry out hydrographic operations within Italian territorial waters without special permission from the Royal Government.

ART. 10. No warship shall execute sentences of death within the territorial waters of the kingdom.

ART. 11. Warships of belligerent Powers which may be within the territorial waters are prohibited from any acts of hostility against each other. When this provision is found to have been violated, such ships as do not obey the intimation to desist will be treated as hostile by the Italian forts and warships.

ART. 12. Foreign warships and merchant vessels fitted as privateers are prohibited from bringing in prizes or from stopping and visiting ships within the territorial waters and within the sea adjacent to Italian islands, and from doing any other acts which may constitute an offense to the rights of sovereignty of the state.

ART. 13. With the exception of officers and warrant officers, the crews of foreign warships shall always go on shore unarmed.

If in the case of funeral honors to be rendered to anyone who has died on board, the commanding officer wishes the remains to be accompanied by an armed escort, he shall ask permission from the highest local authority of the navy or army, and in the absence of such from the harbor authority.

ART. 14. Foreign warships are prohibited from carrying out landing exercises on the Italian coast or target practice within range of the coast guns of the Kingdom without having obtained special permission to do so through diplomatic channels

ART. 15. In case of transgressions it shall be incumbent upon the local naval authorities, or in the absence of such, on the highest official of the harbor office, and in the absence of such office, on the army authorities, to intimate to the foreign warships strict observance of the provisions contained in this decree. In case of persistence in the transgression or of refusal to comply with such intimations, such authorities shall formally protest and shall at once notify by telegraph their respective superiors—the proper authorities of the department, or the naval or military commandant, or the Minister of War, or the Minister of the Navy.

ART. 16. Articles 12 and 13 of the royal decree of April 6, 1864, No. 1728 (first series), on the neutrality of ports, the royal decree of June 16, 1895, No. 430, on the anchoring of foreign warships in the harbors and on the coasts of the kingdom, and other regulations contrary to the provisions of the present decree are hereby abrogated.

(Done at Rome on the 24th day of May, 1906.)

Interrogatory of Arrival of Foreign Warships in the Harbors and Anchorages of the State.

The commanding officer is asked to have entered on this sheet the information requested therein:

1. Nationality of ship.
2. Name and type of ship.

3. Armament (number and caliber).
4. Name and rank of commanding officer.
5. Strength of complement.
6. Number of passengers.
7. Sanitary condition.
8. Port of departure.
9. Destination.
10. Probable length of stay at the anchorage.
11. Motive of entering the harbor.

Dated _____, 19—.

.....
(Signature of commanding officer.)

Rules for Regulating the Entrance of Foreign Warships into Some Maritime Places of the Kingdom.

The entrance of foreign warships into the strongholds of Spezia, Magdalena, Taranto, Brindisi, and Venice shall be limited to the hours comprised between sunrise and sunset; however, the ships must first request permission to enter, by means of wireless telegraphy, of the harbormaster.

If the permission is granted, the ship will proceed via the semaphore station, as indicated below, and then stop at a distance of not less than three miles from said station and hoist its ensign:

Palmaria semaphore for the harbor of Spezia.

Cape Ferro or Cape Yesta semaphore for the maritime harbor of Magdalena.

San Vito semaphore for the maritime harbor of Taranto.

Brindisi semaphore for the maritime harbor of Brindisi.

Submarine signalling and semaphore station of San Nicolo for the maritime harbor of Venice.

The commander of a place (harbormaster) who has been notified by the semaphore station shall send an officer on board the warship for examination and pilotage.

In Time of War.

20 August, 1909.

ART. 1. At any time a fortified harbor must be policed on a war basis, the commandant, if the circumstances require it, shall notify the vessels

in general, war and commercial, which are found anchored in the zone of defense, to get under way and shift berths to berths he assigns to them.

The vessels which receive the notice to get under way are required to get out of the line of artillery fire within 12 hours from the time the order notifying them is received on board.

Vessels which are found not in condition to go to sea at the expiration of the time limit are allowed, subordinately to the exigencies of the harbor, all the facilities possible.

For the execution of the said order, the commandant can make use of all the means that the need and the urgency of the case require.

ART. 2. It is absolutely forbidden in time of war, as well by day as at night, for lighters belonging to private individuals and for ships' boats of neutral warships, anchored in the waters of a fortified harbor, to move about in the said waters without previous special assent, left to the discretion of the commandant of the port.

The nation's commercial vessels and those of the nation's allies, neutral ships of war which are anchored in a fortified harbor, can communicate with the shore only during the day, from sunrise to sunset, and their ships' boats must travel by the most direct route to the landing place which shall be established by the commandant.

These same ships are forbidden to keep their boats lowered during the night. If at any time, for urgent reasons, it becomes necessary for them to communicate with the shore during the night a boat for this purpose can be furnished by the commandant of the port upon request made by pre-arranged conventional signal. Any other signaling whatsoever is absolutely prohibited.

ART. 3. Any ship which in time of war is near a fortified harbor during the night, whether it may be with the intention of requesting entry, or whether it may be only passing by within sight of the defense works, must beforehand identify herself and shall not proceed toward the anchorage without having first obtained explicit permission from the commandant of the port or from the commandant of the local harbor defenses.

ART. 4. To the warships or national auxiliaries and allies there will be distributed by the minister (office of the chief of staff) special confidential pamphlets containing the plans agreed upon to govern the recognition and the entry into the harbor.

ART. 5. The national commercial ships and those of the allied nations, the neutral warships or commercial ships, to make their recognition possible, should hoist their national ensign so that it will be clearly visible, also their international signal code number.

Those desiring to enter the harbor must stop at the maximum distance from the coast at which the signals are visible and semaphore distance (for no method is it ever less than 5 miles) sending from there the request for entry, which consists of the aforesaid international code number, with the conventional flag requesting a pilot, or with the international code signal PD, "Request permission to enter port."

ART. 6. The semaphore station of the fort which receives this signal shall immediately notify the commanding officer, giving such additional information as the chief of the semaphore station may deem useful, such as the nationality, the distance, the bearing, etc.

If the commanding officer does not believe it advisable to grant the request for entry, he will cause the same semaphore station to reply with the signal USX, "Regret not being able to comply with the request."

If, however, he grants the request, he will send a pilot to the vessel, who must pilot it to the anchorage. He may also send an officer with special instructions to investigate the reasons for the vessel's approach and her visit, with instructions to grant or deny entry, according to the results of his visit.

The commanding officers of forts shall carefully arrange conventional signals by means of which the boarding officer or the pilot may transmit through the semaphore station such information as may be urgent or necessary to communicate. One of these signals must indicate that the vessel has been boarded, and another that the pilot has been taken aboard, but it must be established principally that the signal, variable from day to day, must be hoisted in a clearly visible position, so that it can indicate to the semaphore station and to the guard ship that the vessel which flies it has obtained permission to enter port and proceed to an anchorage.

ART. 7. The commandant of the port will judge whether or not to grant entry into the harbor to the vessels mentioned in Article 5, whenever their presence in the waters of the port will not disturb or obstruct

the development of the means of defense. In this respect the said authority should take into account—

(a) That entry is forbidden during the night;

(b) That to neutral vessels, which might have absolute need to entry, can be granted permission to anchor in a conveniently located space, outside of the forbidden line.

(c) That in case of doubt or under special circumstances he can request instructions from the minister upon whom they depend.

ART. 8. To require the observance of the requirements of the articles of the present decree, those ships which, due to ignorance or purposely, violate them, the semaphore station of the fort shall hoist the international code signal calling attention to the fact with a blank shot from the battery. When this warning does not suffice to bring about execution of the orders within five minutes a solid shot is fired aimed a hundred meters ahead of the vessel, and if she still shows reluctance, the battery will open fire on her.

If urgent conditions should require it, the warning blank shot can be omitted.

ART. 9. The Minister of Marine shall have compiled and published a list of the fortified harbors and other localities to which the application of the present decree extends.

In the list there will be clearly outlined the anchorages and the coast line included in the extreme limits of the said harbors or localities, especially the semaphore stations which, with reference to the provisions of Articles 5, 6, and 8, must reply to the signals made by the vessel.

ART. 10. Royal decree No. 322, of April 21, 1895, which governs the sojourn and entry of vessels in harbors in time of war is abrogated.

(Issued at Santi Anna di Veldieri, *August 20, 1909.*)

Fortified Harbors and Localities into which Entry is Prohibited in Time of War without Previous Permission of the Authority.

[Article 9 of Royal Decree No. 655 of Aug. 20, 1909.]

Name of the locality.	Coastal limits of the waters under observation.	Anchorage included within these limits.	Signal stations charged with the exchange of signals.
Altare Vado.....	From the mouth of the Carcallo to the mouth of the Sansolbio.	Spotorno, Vado, Savona.	Cape Noli.
Genoa.....	From the mouth of the Prangia to the mouth of the Recco.	Sestri Ponente, Genoa, Sturla, Bogliasco, Sori.	San Benigno.
Spezia.....	From the Termine Rock to the mouth of the Frigido.	Levanto, Monterosso, Portovenere, Spezia, Lerici, Bocca di Magra, Marina di Avenza.	Palmaria.
Monte Argentario....	From the mouth of the Ambro to the mouth of the Chiarone.	{ Talmone..... Porto S. Stefano, Porto Ercole.	Ronconali. (Monte Argentario.)
Gaeta.....	From Capoverde Tower to Giano Tower.	Gaeta, Formia.....	Orlando Tower.
Maddalena.....	From Wolf Bay to Falcon Point.	Maddalena Estuary.....	Guardia Vecchia, Cape Ferro.
Messina.....	From the mouth of the Itala to the mouth of the Mela (Sicily).	Messina, Milassa.....	Fort Spuria.
	From the mouth of the Vallone della Covaia to the mouth of the Vallonidi River (Calabria).	Reggio, Villa S. Giovanni.	Cape d'Armi.
Taranto.....	From the mouth of the Paterniscolo to the mouth of the Ostone Canal.	Taranto, Mar Grande, Mar Piccolo.	Cape S. Vitò.
Ancona.....	From the Fortino Reef to the Marina di Falconara.	Ancona, Porto Nuovo...	M. Cappuccini.
Brindisi.....	From the Materella Tower to Testa Tower.	Brindisi.....	Forte a Mare.
Porto Corsini.....	Entrance to the canal.....	Porto Corsini.....	Porto Corsini.
Venice.....	From Port Fossone to Port Cortellazzo.	Chioggia, Venice, Laguna Veneta.	Submarine pilot tower S. Nicolo di Lido.

COLONIAL (TRIPOLI, LIBIA.)

23 October, 1913.

There are no restrictions as to the number of men-of-war allowed in port at one time; it is to be noted that only about six men-of-war drawing not over 19 feet and 4 torpedo destroyers can at present be accommodated in the harbor. Other ships would have to anchor in the roadstead which in the winter season is liable to be very rough and unsafe. After three days it is necessary to secure the permission of the

Ministry of Marine for a longer visit. Visits of men-of-war do not have to be previously announced, but the announcement of any such visit by the American Embassy to the Italian Royal Government would be appreciated.

JAPAN.

There are no restrictions in time of peace concerning the number of men-of-war under one flag that may enter any one of the open ports of Japan or her possessions, or as to the length of time they may remain in port.

The open ports are:

JAPAN.

Yokohama	Aomori
Kobe	Moji
Niigata	Wakamatsu
Ebsiuminato	Hakata
Osaka	Karatsu
Nagasaki	Kuchinotsu
Hakodate	Misumi
Shimizu	Itsuhara
Odamari	Sasuna
Suminoy	Nagoya
Taketoyo	Shishimi
Yokkaichi	Naha
Ito-Saki	Hamada
Shimonoseki	Sakai (on sea of Japan)
Miyasu	Tsuruga
Nanao	Fushiki
Otaru	Kushiro
Mororan	Miike
Nemuro	

KOREA.

Chemulpo	Mokpo
Fusan	Masanpho
Gensan	Songchin
Chinnampho	Chongchin
Seoul	Sin-Wiju
Kunsan	

MANCHURIA.

Dalny	Port Arthur
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FORMOSA.

Kelung	Tamsui
Ta-Kau	An-Ping

The naval ports of Japan are:

Yokosuka	Kure
Sasebo	Maizuru
Ominato	Hafu Bay, Oshima Islands.
Takeshiki, Tsushima Island.	Bako, Pescadores Islands.
Chinkai Bay, Korea.	Yong-heiung Bay, Korea.

If foreign men-of-war desire to enter any naval port, secondary naval port, or any unopened port in Japan, Formosa, Korea, or Manchuria permission must be obtained from the Imperial Government at Tokyo through diplomatic channels.

MEXICO.

There are no regulations or restrictions concerning the number of men-of-war under one flag that may visit any one or all of the ports of the country at one time, but the duration of such visit would be determined by the nature and purpose thereof.

The Constitution of Mexico, Art. 72, as amended, reads: "Congress has the power. . . . 111. To authorize the Executive to permit the departure of national troops out of the limits of the republic, the passage of foreign troops through the national territory, and the stay of vessels of another Power for more than one month in the waters of the republic."

NETHERLANDS.

30 October, 1909.

ARTICLE 1. Repeals decree of the 2d of February, 1893. (Official Gazette No. 46.)

ART. 2. With exception of the provision of Article 4, respecting a prior permit granted to foreign warships to enter the said sea openings and ply inland waters within the kingdom, foreign warships are allowed to enter the Netherlands territorial waters and the Netherlands waters lying there within from the sea, provided such is done by the shortest possible course and with due observance of the provision of Article 3, in order to reach the roads or harbor situated on the sea, for the purpose of anchoring there, and on condition that, inclusive of those already in the Netherlands territory, the number of warships there at one time under the same flag does not exceed three.

The provision of the first clause does not prevent the free passage through the territorial waters, in so far as such is recognized by international law.

ART. 3. In navigating the sea openings of the kingdom and inland waters, foreign warships and their sloops are not allowed to go outside the indicated channel, used by state pilots, in the interests of navigation.

The taking of observations and depths is only allowed in so far as safe navigation may demand the same.

We reserve the right for controlling the strict observance of this provision by the ship, to have the ship escorted by an officer of the royal navy or an official of the pilot service.

ART. 4. Foreign warships are forbidden, without the sanction of our Minister of Marine, to enter the hereafter-mentioned sea openings, or without such sanction to ply on the inland waters of the kingdom.

The said sea openings are those of Terschelling, Texel, IJmuiden, Hoek van Holland, Goeree.

Under the inland waters of the kingdom are understood all inland waters situated within the sea openings.

ART. 5. In special cases permission is given by us to deviate from the provision of Article 2 in respect to the number of ships prescribed.

ART. 6. No foreign warships shall remain within the territory of the kingdom for a period exceeding 14 days in succession.

Any one warship may not, except with the permission of our Minister of Marine, enter for the second time the sea opening of the kingdom within a period of 30 days.

ART. 7. The restrictive prohibitions of Articles 2, 4, and 6 do not apply:

(a) To the warships on which, as appears from the standard or flag carried, there is a reigning prince, a member of a royal family, the president of a republic, or the chief of some mission of some foreign Power in The Netherlands or the head of a mission of some foreign power to The Netherlands nor to the accompanying warships;

(b) To cruisers on fishing police service in the North Sea of the Powers in regard to whom the treaty of May 6, 1882 (Official Gazette 1884, No. 40) is in force;

(c) To foreign warships, exclusively destined for religious, scientific, or humanitarian purposes;

(d) To foreign warships in cases of need, peril by sea, or disabled. As soon as these causes have ceased to exist, as our Minister of Marine

shall decide, the provisions of Articles 2, 4 and 6 shall once more go into effect.

The exceptions to the restrictive prohibitions mentioned under the heads (a) to (c), inclusive, are only applicable toward those Powers who follow the same line of action in regard to Netherland ships of war.

ART. 8. The permit mentioned in Article 4 must, in so far as it has not been obtained through diplomatic channel, be asked for.

(a) In so far as the sea openings are concerned:

With respect to the sea opening of Terschelling through the commissioner of the pilot service at Terschelling;

With respect to the sea opening of Texel or the sea opening of Goeree, respectively, through the director and commander of the marine at Willemsoord or at Hellevoetsulius;

With respect to the sea opening of IJmuiden or the sea opening of the Hoek van Holland, through the commander of the warship stationed there, or in case of his absence through the commander of the garrison of the fort.

(b) In so far as inland waters are concerned:

In the sea openings mentioned in Article 4, through the authorities above mentioned under (a);

In the rest of the sea openings, through the commander of the warship stationed there.

If no warship is stationed there, the permit should be asked for through the royal harbor master, in case of his absence through the commissioner of the pilot service, or, if none of these officials is on the spot, through the burgomaster.

ART. 9. The authority mentioned under Article 8 will supply to the commander of the foreign warship a copy of these regulations and a form to be drawn up by our Minister of Marine containing certain interrogations, which form should be faithfully filled in.

ART. 10. Foreign warships shall not, within the sea openings of the kingdom and the territorial waters and in general within the limits of the kingdom, take hydrographical or survey observations, have no landing drill, and without the sanction of our Minister of Marine have no firing, torpedo, or mining drill.

The crew shall go ashore unarmed; this does not apply to the officers and subalterns, in so far as the sword or poniard belonging to their uniform is concerned.

The sloops shall ply unarmed.

If desired in case of funeral ceremonies on shore, that the prohibition of the second clause of this article be suspended, the request thereto must be addressed to our Minister of Marine through the authorities mentioned in Article 8.

No capital sentences shall be executed on board of foreign warships within the sea openings and territorial waters of the kingdom.

ART. 11. Foreign warships shall respect the existing police, sanitary, and fiscal laws and by-laws and conform to all harbor regulations, in the one case as well as the other, to the same extent that warships of the royal navy are bound thereby.

ART. 12. Such foreign warships sojourning within the realm as shall be guilty of infringement of the above-mentioned provisions are liable to be ordered to leave; if necessary force may be used to compel them to do so.

ART. 13. Whenever through diplomatic channel permission to enter has been accorded the government pilots stationed outside the sea openings and harbors shall, if possible, be informed thereof.

Generally these pilots are acquainted with the contents of these provisions and whether the occasion exists or not for the replying to a salute to the Netherlands flag.

As far as possible they shall communicate these matters and, moreover, give the information requested respecting the above provisions to the commander of the foreign ship they pilot.

ART. 14. These provisions apply in times of peace and relate to foreign warships which are not engaged in warfare.

We reserve the right in time of war, peril from war, or in the maintenance of neutrality, and further in other special circumstances to limit or even entirely prohibit the admission of foreign warships to the Netherlands territorial waters and to the Netherlands waters lying there within.

Foreign warships, which in virtue of this decree are within the Netherlands territorial waters or the Netherlands waters there within, are under the obligation, within six hours in any case to make for the open sea as soon as they are in receipt of a request thereto from the Minister of Marine or from one acting for him.

(Het Loo, the 30th of October, 1909.)

PROTECTORATES.

CURACAO.

2 April, 1912.

ARTICLE I. This resolution includes among men-of-war and vessels equalized therewith all vessels:

First. Which carry the outward marks of men-of-war of their nationality (flag and command flag or split command pennant);

Second. Whose commander is in the service of the state and is charged with the command by the competent authority; and

Third. Whose crew is subjected to military laws.

ART. II. Foreign men-of-war and vessels equalized therewith may within the territory of the colony not make any survey, nor cause any landing to be made by way of practice, nor cause, without previous permission of the governor, any firing practice to take place.

The crew may not land but unarmed, with the exception of the officers and subaltern officers, as far as concerns the saber or the poniard, which appertains to their uniform—and also the boats or launches as well as their crew may not navigate otherwise than unarmed.

The preceding part of this article is not applicable in case of exigency.

If it is desired for particular reasons, for instance at funeral ceremonies ashore, to deviate from the prohibition contained in the second part of this article, permission thereto can be granted at Curacao by the attorney general and at the other islands of the colony by the respective *gezaghebbers*.

ART. III. In case any foreign man-of-war or vessel equalized therewith may have transgressed one of the foregoing or hereafter to be enacted stipulations, the said vessel can then be ordered to retire from the territory of the colony, and, if need be, it can be compelled thereto by force.

In the latter case the naval or military authority, designated thereto by the governor, shall order obedience by a shot at about 500 meters distance alongside the vessel; subsequently by a second shot at about half the distance of the first, and, if need be, further by shots across the vessel or against the rigging, and thereafter against the hull.

ART. IV. The pilots, admitted in the colony, will make the herein mentioned commander, so much as necessary, acquainted with this resolution and with the prescriptions, further alluded to in Article V;

and furthermore furnish the information desired to the commander of the foreign man-of-war or vessel equalized therewith, who may therefor apply to them.

ART. V. To men-of-war and vessels equalized therewith being in relation to states befriended with The Netherlands and which are in war, this resolution is applicable so far as there are no other prescriptions given or made known to maintain the neutrality at or after the breaking out of that war.

In case of a war, in which The Netherlands are concerned, this resolution is applicable, so far as the contrary is not stipulated.

(Order of the governor.)

DUTCH EAST INDIES.

16 October, 1905.

ARTICLE 1. In these regulations the term "foreign warships" is to be understood to mean:

I. All warships of nations on friendly terms with The Netherlands.

II. All ships having on board armed troops of nations on friendly terms with The Netherlands.

ART. 2. The highest civil authority of the respective place shall notify the naval commandant directly, if possible by telegraph, of the entering or anchoring of foreign warships in the roadsteads, channels, ports, and rivers of Dutch East India, and in the Dutch possessions outside of Java and Madoeras such civil authority shall also notify the head of the district government in case the latter does not himself constitute such civil authority.

ART. 3. (1) The harbor master, or his representative, shall transmit to the commanding officer of every foreign warship entering or anchoring in a Dutch East Indian roadstead, channel, port, or river,

(a) An extract from these regulations in the French, German, and English languages.

(b) A blank form to be filled out, drawn up by the naval commandant in French, German, or English, containing questions regarding the flag, charter, name, complement, armament, port of origin, duration of voyage, length of intended stay, destination, state of health, etc.

(2) A copy of said blank form as filled out shall be transmitted immediately to the head of the district government and to the naval commandant.

ART. 4. (1) The crews of foreign warships are prohibited within the Dutch East Indian territory from making hydrographic or topographic surveys, from carrying out exercises in the nature of landings, and from engaging in target practice, except as provided for in Article 5.

(2) The crews shall not carry arms when going ashore; officers and noncommissioned officers may, however, carry the side arms which form part of their respective uniforms. Ships' boats running about the territorial waters and their crews shall not carry any arms.

(3) The preceding paragraph shall not apply in case of urgent necessity.

(4) In case it should be desired for special reasons—*e. g.*, for funeral ceremonies—to deviate from the provision contained in paragraph 2, permission to do so may be granted: at the district seat by the head of the district government, at other places by the highest civil authority of such place.

ART. 5. (1) The commanding officer of a foreign warship stopping at Batavia may be permitted to engage in small-arms target practice on shore.

(2) Application for such permission should be made by such commanding officer to the naval commandant.

(3) If no reasons exist for refusing such permission, the naval commandant shall inform such commanding officer of the place where and the time when such exercises may be carried out, also of the number of target ranges available.

(4) A naval officer shall, in each case, be assigned to the officer in charge of the exercises in order to give the necessary explanations regarding the target ranges and to see that the regulations are complied with.

(5) The naval commandant shall notify the head of the district government by telephone of the fact that such permission has been granted and of the time when the target practice is to be held.

ART. 6. Foreign warships are bound within Dutch East Indian territory to observe the existing laws and regulations of said territory.

ART. 7. (1) In case any foreign warship should violate any of the foregoing regulations, the highest civil authority in the place may, if practicable with the consent of the government, order such ship to leave, and if necessary compel her by force to do so, after such civil authority has first conferred with the competent naval or military authorities.

(2) In the latter case the naval or military authority shall demand

obedience by firing a shot alongside the ship at a distance of about 500 meters, then by a second shot at about half that distance, and, if necessary, by firing above the ship and against the rigging, and finally against the ship's hull.

ART. 8. (1) The government pilots shall be apprised of these regulations and shall be notified by the harbor master or his representative as to whether a salute to the Dutch flag can be answered, and if so, where.

(2) So far as may be necessary, they shall inform the commanding officer of the foreign warship with regard to these points and shall also give him any additional information concerning these regulations which he may ask for.

ART. 9. (1) As regards warships of friendly nations in a state of war these regulations are applicable in so far as no other regulations for the maintenance of neutrality shall have been issued at the time of or after the breaking out of the war.

(2) In case of a war to which The Netherlands are a party, these regulations are applicable in so far as no regulations to the contrary shall have been issued.

(Given at Buitenzorg, *October 16, 1905.*) (Order of the governor.)

NICARAGUA.

There are no restrictions as to the number of men-of-war under one flag that may visit any port at one time, nor as to the duration of such visit. There are no closed ports in this country.

NORWAY.

20 January, 1913.

1. No foreign warships, with the exception of those mentioned in paragraph 4, shall touch at a Norwegian military port or naval station without having previously obtained permission so to do from His Majesty the King or from those whom His Majesty has empowered to grant such permission.

The type and name of the ship or ships desiring to visit a Norwegian military port or naval station must be given in advance, as well as the time of the visit and the duration of the stay. Except under special permission covering exceptional cases, the duration of the stay in a military port or at a naval station shall not exceed eight days, and as

a rule not more than three warships can be permitted to touch at the same port at the same time. See O. N. I. 1450.

2. For the time being the following portions of the Norwegian coasts are to be considered as military ports or naval stations:

Christiania-Fjord and the waters within a line drawn from the Tonsberg buoy, the lighthouse of Faerder, the lighthouse of Torbjøraskjaer, Vikertangen on Asmalo, Askholm to the eastern coast of Skjebergkilen.

The Harbor of Christiansand with the channel inside of Frederiksholm and the lighthouses on Oxo, Gronningen and Torso;

The harbor of Bergen, together with the approaches thereto inside the line formed by Fonnes (eastern side of the Lygrefjord), the Helliso lighthouse, Tekslen (northern side of Korsfjord), and the church of the Lysekloster;

Trøndhjemsfjord inside the line of the lighthouses of Agdenes and Hovdetaaen on Oerlandet;

The harbor of Bardo.

3. Entrance to the other harbors and anchorages of the kingdom are free to foreign warships after previous application, so long as no other dispositions are made to meet special cases. Nevertheless, not more than three such vessels belonging to the same nation may remain in the same port, nor may the duration of the stay exceed 14 days. Exceptions to the regulations contained in this paragraph can be made only after permission has been obtained through diplomatic channels.

4. The following vessels shall be exempt from the general regulations mentioned in paragraphs 1 and 3:

(a) A warship having on board the head of the state of a foreign nation and the vessels accompanying such warship;

(b) Warships in evident distress, such vessels being permitted to seek refuge, in the national harbors at any time;

(c) Warships intended or detailed for the protection of the fisheries or for hydrographic or other scientific work.

5. Foreign warships calling at any Norwegian port to which a board of port authorities is assigned are bound to anchor at such place as the proper authority (harbor master) shall designate. Any permission to a foreign warship to stop at a Norwegian port or anchorage can be recalled at any time. Any foreign warship lying in a Norwegian port or at a Norwegian anchorage—even when she has the right so to do in conformity with the foregoing—must in every case weigh anchor no

matter when requested and leave the port within six hours or change her berth as directed.

6. Foreign warships sojourning in Norwegian ports or waters are forbidden to cruise past localities or in the vicinity of localities where batteries, fortifications, or other military installations are established, and also localities enclosed by the military authorities. Landing exercises and target practice with guns, small arms, or torpedoes may not be carried out. Enlisted men of the crew must be unarmed when they go ashore, but officers, petty officers, and cadets may wear the weapons belonging to their uniforms.

7. Persons belonging to foreign warships are forbidden to make, copy or publish plans, outlines, sketches, photographs or descriptions of Norwegian fortifications or establishments, etc., belonging thereto (See Art. 3 of the law regarding military secrets of August 18, 1914).

8. Commanding officers of foreign warships must observe the sanitary, customs, pilotage, and harbor regulations issued by the proper authorities.

9. The foregoing regulations shall remain in force until His Majesty the King shall decree otherwise.

(Established by royal decree of *January 20, 1913.*)

Rules to be Observed by Vessels on their Arrival at a Norwegian Port or within Norwegian Waters.

October 1, 1915.

1. Any vessel lying within Norwegian waters must fly its national flag upon arriving at an anchorage where a Norwegian war or patrol vessel happens to be and also wherever such a vessel is in sight. In addition any vessel within Norwegian waters must stop immediately upon being required to do so by a Norwegian war or patrol vessel through, for instance, the signal blast of a steam-whistle, the displaying of signal flags or the firing of a warning gun.

Within Norwegian waters, Norwegian war or patrol vessels have the right to search ships, their cargoes and persons on board. The officers of the visited ship shall readily acquiesce in the inspection, furnish such information of interest to the military authorities as they may be able to impart, and also shall be bound to obey such instructions as may be given them respecting their conduct and subsequent sailing course.

2. All infringements of the above mentioned requirements shall be

tried as provided by Article 339 (2) of the Civil Penal Code of May 22, 1902.

3. The requirements of section 1 shall take effect at once.

PANAMA.

There are no restrictions as to the number of men-of-war under one flag that may visit any port at one time, nor as to the duration of such visit. There are no closed ports in this country.

PERU.

There are no restrictions as to the number of men-of-war under one flag that may visit any port at one time, nor as to the duration of such visit. There are no closed ports in this country.

PORTUGAL.

There are no restrictions as to the number of foreign men-of-war under one flag that may visit a Portuguese port at one time or as to the length of time they may remain in the port.

It is customary to give notice of an intended visit beforehand through diplomatic channels.

New Regulations Governing the Entry of Vessels into the Port of Lisbon.

No vessel desiring to enter the port of Lisbon or simply navigating along the coast, except Portuguese fishing vessels which do not draw more than seven feet, may enter the zone to the east of meridian 9° 25' W. and north of parallel 38° 33' 45' N. without a pilot on board.

Entrance into the port of Lisbon is positively forbidden between sunset and sunrise or when there is a fog which makes it impossible to see beyond two miles.

Any war or merchant ship, with or without a pilot on board, attempting to enter during the night by any channel whatever will be considered an enemy. The fortress of St. Julian shall make known its proximity by a warning shot.

Every ship desiring to enter the Tagus must approach the citadel of Cascais in order to pick up a pilot, and must announce by signals or radio her name and whence bound, as well as answer promptly all ques-

tions put to her, hoisting such signals and distinguishing marks, as the pilot may indicate.

It is not permitted to pass through any channel without authority given by semaphore, and by a signal known only to the pilot.

Exempt from this rule are Portuguese fishing vessels, whether steam or sailing, whose draft does not exceed seven feet, but they must anchor or lie to close to the navy guard ship.

A ship to which entrance has been refused by semaphore by hoisting the signal N, must immediately put to sea, or anchor, in order that the captaincy or the navy guard ship may proceed to inspect her, in case her captain has requested an inspection.

When a ship has been granted permission to enter, she must follow the orders given by the pilot, keeping hoisted her name and the special distinguishing signal indicated by the pilot, and must slow down at St. Julian until the same signal is hoisted to indicate that she may continue on her way.

Inside and outside the bar, as far as the anchorage, she must promptly obey any orders given to her by the naval vessels on guard duty.

Any war or merchant ship attempting to enter during the day by whatever channel, failing in any way to have fulfilled the above rules, whether with a pilot on board or not, will be treated as an enemy.

When through conditions of the weather or any other unforeseen cause, the pilot's boat is not able to remain at its post, vessels must nevertheless approach the citadel, which will give them permission to enter, but they must wait until a vessel of the state comes out to convey them into port, being in this case subject to inspection after they have passed St. Julian.

ROUMANIA.

22 November, 1912.

ARTICLE 1. It is forbidden to foreign warships to enter Roumanian ports or to cruise in Roumanian waters without notice having previously been given through diplomatic channels.

ART. 2. The stay of foreign warships in Roumanian ports shall not exceed a duration of 10 consecutive days.

A new permit cannot be issued for the same ship until after the expiration of 30 days, reckoning from the date of the last departure from a Roumanian port.

As a rule, not more than one warship of the same foreign Power shall be permitted to be present in any one of the national harbors at the same time, and only as an exception will permission be granted for a combination of several foreign warships to visit the seaports.

ART. 3. The limitations imposed under Article 1 shall not apply:

(a) To the station ships at the mouths of the Danube belonging to the powers represented in the European commission;

(b) To warships having on board the head of a nation, a member of a reigning family, or an individual in charge of a mission having his credentials from the head of a nation, together with the warships which may accompany such persons;

(c) To foreign warships in distress and those which have been overtaken by stormy weather or have suffered damages; nevertheless, as soon as the occasion no longer exists, the provisions of Article 1 shall immediately come into force again.

ART. 4. Foreign warships entering Roumanian waters and ports will be met by a pilot, who will be sent to them by the captain of the port in question, and who will conduct them to the place where they are to anchor and indicate the same to them.

ART. 5. Foreign warships are absolutely forbidden to make hydrographic surveys, launch torpedoes, or execute a death sentence within the ports and territorial waters of Roumania.

Nevertheless it will be permitted to make such surveys and measurements as are required for safety in navigating.

An understanding must previously be had with the captain of the port for any work under water, such as an examination of the ship's hull, screws, anchor, etc., whether with or without the coöperation of the divers.

Enlisted men of the crew must be unarmed when they go ashore. Officers may wear such arms as form a part of their uniform.

Boats which ply within a port or within the territorial waters must be unarmed.

An exception may be made to the provisions of paragraph 4 of the present article for the landing of the crew on the occasion of some ceremony or a funeral, but only with permission from the local military authorities.

ART. 6. Foreign warships are forbidden to disembark any person for any reason whatsoever during their voyage without informing the military authorities of the fact.

ART. 7. Foreign warships, as well as the national warships, must observe all police, sanitary, fiscal, and harbor laws and regulations.

To this end the captain of the port shall transmit to the commanding officers of warships upon their arrival a copy of the more important articles of these regulations.

ART. 8. The provisions of this decree shall apply in time of peace as well as in time of war to the warships of such foreign nations as are not in a state of war.

In the case of a war, a mobilization due to the danger of war for the purpose of preserving neutrality, or for any other reason, the approach of foreign warships to or entrance into Roumanian waters can be restricted or entirely forbidden.

Foreign warships which have been given permission to enter Roumanian waters shall, in case the above-mentioned circumstances arise, take their departure six hours after the receipt of a notification from the Minister of War or in his name.

(Delivered at Bucarest, Nov. 22, 1912.)

RUSSIA.

January 5, 1914, December 23, 1913.

ARTICLE 1. As regards visits by foreign warships, Russian ports and waters are divided into three classes, to-wit: 1. Open; 2. Conditionally open; 3. Closed.

ART. 2. By open ports and waters shall be understood all Russian ports and waters with the exception of those mentioned under Article 3 and those which have been closed by special order.

ART. 3. The conditionally open ports and waters are:

(a) In the Baltic: Port Kaiser Alexander III, Riga, Libau, Dünaburg, Reval, Helsingfors, Sweaborg, Kronstadt and St. Petersburg; the waters of (1) Mohnsund from Worms to Werder including the passages of Nukkö-Worms and Sölasund; (2) along the coast of the Gulf of Finland from Hango to Stirs-Udde, and (3) the Abo-Aland Skären.

(b) In the Black Sea: Sebastopol, Ialta, Kertch, Batu, the Dniester River, the Dnieper Bay Channel, the Djarilagatch Bay, the stretch of water from Cape Lukul to Cape Aja, the Straits of Kertch and the Sea of Azof.

(c) In the Pacific: Vladivostock and the waters of Peter the Great Bay, Posiette Bay, and the Bays of America, Nikolaievsk on the Amur and de Castri.

ART. 4. Any port or waters can, by special order of the Minister of Marine, which order shall be made publicly known, be declared closed so far as visits by foreign warships are concerned.

ART. 5. No special permission is required for visits by foreign warships to the open ports and waters of Russia; the Imperial Government must, however, be duly informed through diplomatic channels of the arrival of such ships.

ART. 6. Foreign warships desiring to visit the conditionally open ports and waters mentioned under Article 3 must first obtain permission from the Russian Government through diplomatic channels. Requests for such permission must distinctly specify the ports or waters that it is desired to visit and mention the ships together with the time and duration of their proposed visit.

ART. 7. Entrance of foreign warships into conditionally open ports and waters will be permitted only when duly authorized by the Imperial Government and between sunrise and sunset.

ART. 8. The above regulations (Articles 5, 6 and 7) do not apply to:

(a) Ships having on board crowned heads, members of reigning houses, presidents of republics or their suites, or duly accredited ambassadors and envoys to the court of His Majesty the Emperor, and

(b) Ships forced to seek refuge in Russian ports on account of disaster or damage.

ART. 9. Foreign warships admitted to Russian ports and waters must anchor at the place indicated by the local authorities and must observe the regulations regarding health, order, safety, the use of radio telegraphy, and any other local ordinances.

ART. 10. Foreign warships sojourning in open or conditionally open Russian ports and waters are unconditionally bound to put to sea within ten hours after the receipt of a request to this effect from the Minister of Marine.

ART. 11. The privileges accorded in the foregoing regulations may be restricted and modified in the case of warships belonging to nations which subject Russian warships to less favorable conditions.

SALVADOR.

There are no restrictions as to the number of men-of-war under one flag that may visit any port at one time, nor as to the duration of such visit. There are no closed ports in this country.

SANTO DOMINGO.

There are no restrictions as to the number of men-of-war under one flag that may visit any port at one time, nor as to the duration of such visit. There are no closed ports in this country.

SPAIN.

There are no restrictions as to the number of men-of-war under one flag that may visit any port of Spain at one time or as to the length of time they may remain in one port; but it is customary to give notice of the intended visit of a single ship or squadron through diplomatic channels.

SWEDEN.

20 December, 1912.

ARTICLE 1. Foreign warships may not, without special permission, have access to the Swedish naval ports, Stockholm, Gothenburg, Karlskrona, and Farosund, but the proper military authorities in these ports may, even if permission should not have been obtained beforehand, grant access to vessels intended for the supervision of fishing or for scientific purposes.

When, in accordance with special regulations, access to certain zones within Swedish territorial waters shall be forbidden to the warships of a belligerent Power, the access to such zones shall be subject to the same regulations as naval ports with regard to other foreign warships.

To other Swedish ports or roadsteads foreign warships may have access with the restriction that not more than three such vessels belonging to the same nation may be allowed to remain simultaneously in the same port or the same roadstead and that a visit must not exceed fourteen days; a notification of the visit must be made through diplomatic channels, if possible, at least eight days before it is intended to take place.

ART. 2. The zones assigned to the various naval ports are:

For Stockholm: Partly the area within a line which, drawn from the mainland at S. Rorvik, west of Simpnasklubb lighthouse goes through the lighthouses at Simpnasklubb, Soderarm, Gronskar, Hufvudskar, Roko, and across the promontory of Yxelo to the mainland, and partly the area within a line from the south point of Jarflotta through Landsort to Ledskar.

For Gothenburg: The area within a line which, drawn from Korshamn on the mainland, goes through the Inre Ledskar beacon, the signal mast of Torrboskar, the Vinga lighthouse, the cairn of Yttre Tistlarna and the southwestern point of Saro.

For Karlskrona: The area within a line which, drawn from Torhamn Point goes past Utlangan lighthouse to Gjo Point on the mainland.

For Farosund: The area within a line at the north entrance from the point at Hallegrund over the north point of Falholmen to the coast of Fottland at Halludden, west of the above-mentioned islet and within a line at the south entrance from Ryssnas along the eastern shore of Bungeor to the northwestern point of Skenholmen and to the coast of Gottland at Albyref, west of Skenholmen.

ART. 3. Foreign warships which, after application either through diplomatic channels or otherwise, have obtained permission to visit a Swedish naval port or any zone subject to the same restrictions respecting the choice of anchorage shall observe the orders that may or shall be issued by the highest military authorities on the spot.

ART. 4. Foreign warships visiting a Swedish port or Swedish territorial waters shall, when the King so decides, leave the port or Swedish territorial waters and put to sea within six hours after having been directed to do so by the highest local authorities, military or civil, even if the time stated in Article 1 or other period allowed for a vessel's visit at the place should not be up.

ART. 5. The officers and crew of a foreign warship are not permitted to draw maps or undertake any measurements or soundings in Swedish territorial waters with the exception of such soundings as may be necessary for the navigation and safety of the vessel.

Exercises in landing and shooting must not be made, neither may armed men disembark without special permission.

ART. 6. Foreign warships in Swedish inner territorial waters must not follow any other route but that of the pilots, and the officers in command of such vessels are bound, except when otherwise provided, on such occasions to employ licensed pilots. By inner territorial waters it is meant harbors, entrances to harbors, roadsteads, and bays, as well as waters situated between and inside of islands, islets, and rocks, which are not constantly being washed over by the sea, always provided, however, that in Oresund (the sound) only the harbors and entrances of harbors there are to be considered as inner territorial waters.

Commanders of foreign warships within Swedish territorial waters

are bound to observe the regulations for health, pilotage, customs, and ports, as well as the police regulations given by the proper authorities.

ART. 7. The provisions in Article 1 do not apply to a vessel on board of which there is a foreign sovereign or his official representative, or to a vessel escorting such a vessel, nor to a vessel in serious distress.

ART. 8. Concerning access of warships of belligerent Powers into Swedish ports and roadsteads and to other Swedish territorial waters there are special regulations in force.

This ordinance shall come into force immediately when issued, from which date the royal ordinance of April 22, 1904, concerning the access of foreign warships to Swedish ports and waters, shall cease to be valid.

(At the Palace of Stockholm, *December 20, 1912.*)

ADDITIONAL PROVISION ¹

Submarines of belligerent Powers are forbidden to navigate or sojourn within the Swedish territorial waters at less than three nautical miles from the mainland or the islet or reef most distant from the Swedish coast that is not constantly under water, with the exception, however, of the sea highway in the Sund lying between the parallels of latitude drawn across the Viken lighthouse in the north (N. Lat. 56° 8' 7) and the Klagshamm lighthouse in the south (Lat. N. 55° 31' 2). The foregoing provisions shall not be applicable to cases when a submarine should be compelled by the condition of the sea or on account of damages to enter the forbidden waters; provided, however, that it shall keep on the surface and display the flag of its nation in the said waters. As soon as the cause for its entering the forbidden waters shall have ceased the submarine shall leave the said waters in as short a time as possible.

TURKEY.

There are no regulations restricting the number of men-of-war under one flag that may visit any port of Turkey, except those ports on the Dardanelles and the Black Sea.

The latter ports are closed to men-of-war by treaty stipulations, and men-of-war are only allowed to visit Constantinople by special permission obtained through diplomatic channels.

¹ Notified to the Department of State of the United States by the Netherlands Legation in a note dated March 23, 1916.

UNITED KINGDOM.

December, 1912.

1. The term "ship of war" is to be understood as including all ships designated as such in the accepted sense of the term and also auxiliary vessels of all descriptions.

No special permission is necessary to enable foreign ships of war, up to a total of three vessels, to visit fortified or unfortified ports, harbors, roadsteads, estuaries, or navigable rivers in the United Kingdom.

Notice that a visit is in contemplation should, however, invariably be forwarded through the usual diplomatic channels so as to arrive, should circumstances permit of this, not less than seven days prior to the commencement of the proposed visit, and unless such notice has been acknowledged no foreign ships of war may enter or remain in the fortified or unfortified ports, harbors, roadsteads, estuaries, or navigable rivers in the United Kingdom.

2. As a general rule, not more than a total of three foreign ships of war of the same nation may visit or remain in a fortified or unfortified port, harbor, roadstead, estuary, or navigable river of the United Kingdom at the same time. Special permission should be obtained through the ordinary diplomatic channels if it be desired that this number should be exceeded.

3. The above regulations do not apply:

(a) To ships of war and vessels on board of which are embarked sovereigns, members of the sovereign's family, presidents of republics or their suites, or ambassadors or envoys to the court of His Majesty the King.

(b) To ships or vessels which are obliged by reason of damage sustained, perils of the sea, or other unforeseen causes to enter a British harbor.

(c) To vessels engaged in the superintendence of the fisheries in the North Sea in accordance with the North Sea fisheries convention.

4. At the Nore, Dover, Portsmouth, Plymouth, Queenstown, Brehaven, Milford Haven, Portland, and Rosyth the right of assigning anchorage berths to foreign ships of war and of directing them to shift berth, should the same become necessary, is vested solely in the commander in chief or senior naval officer of the port.

At all other ports, harbors, roadsteads, estuaries, and navigable rivers

where there is any constituted harbor authority such right is vested in the harbor master, acting in conjunction with the coast guard or with the senior naval officer, if there be any, of His Majesty's ships present.

5. Foreign ships of war are under no obligation to take a pilot when approaching ports, harbors, roadsteads, estuaries, and navigable rivers of the United Kingdom; but within the zone of the defenses of fortified or limits of unfortified ports, harbors, roadsteads, estuaries, and navigable rivers they are subject to the regulations of the port, if any.

6. Should a foreign ship of war fail to comply with the regulations of the port, the attention of her commanding officer will first be called thereto by the harbor master or other authority, as above specified, and explicit observance of these regulations will be requested.

Should this course fail, the foreign ship of war may at once be requested to leave the harbor.

7. Upon entering any of the ports mentioned in paragraph 4 or any other port or harbor, etc., where one of His Majesty's ships is present, foreign ships of war will be boarded by an officer sent by the naval commander in chief or senior naval officer, who will offer the commanding officer the courtesy of the port.

The officer will acquaint the commanding officer with the anchoring berth that has been allotted to his ship and will obtain information as to the object and the proposed duration of the visit, the name of the commanding officer, and the information it is usual to obtain upon such occasions.

8. Should the officer sent to welcome the foreign ship of war arrive on board after she has already anchored or made fast, the prescribed notification and inquiries will nevertheless be made and the confirmation of the anchoring berth taken up or the assignation of another will also be carried out.

9. At other ports or places where there are none of His Majesty's ships present the above duties will be carried out by the harbor master or his representative, or, if there is no harbor master, by the coast guard.

At ports, etc., where there is no harbor master nor coast-guard station the foreign ship of war will be boarded by the customs officers.

(December, 1912.)

[The above regulations refer only to ports in the United Kingdom.]

URUGUAY.

There are no restrictions as to the number of men-of-war under one flag that may visit any port at one time, nor as to the duration of such visit. There are no closed ports in this country.

VENEZUELA.

There are no restrictions as to the number of men-of-war under one flag that may visit any port at one time, nor as to the duration of such visit. There are no closed ports in this country.

CORRESPONDENCE BETWEEN MEXICO AND THE UNITED STATES REGARDING THE AMERICAN PUNITIVE EXPEDITION, 1916.*

Special Representative Carothers to the Secretary of State.

[Telegram.]

EL PASO, TEX.,
March 9, 1916.

Early this morning Villa attacked American garrison at Columbus, setting fire to several buildings and killing several American soldiers. Twenty-three Villistas were killed. It is believed Villa led attack in person. I leave for Columbus this afternoon, arriving there 4 p. m. Address care Col. Slocum, commander Thirteenth Cavalry. American troops have crossed border in pursuit of Villa.

CAROTHERS.

Collector Cobb to the Secretary of State.

[Telegram.]

EL PASO, TEX.,
March 9, 1916.

Following from Deputy Collector, Columbus, N. Mex.:

Columbus attacked this morning, 4.30 o'clock. Citizens murdered. Repulsed about 6 o'clock. Town partly burned. They have retreated to west. Unable say how many were killed. Custom force and families O. K.

Department of Justice informed that between four and five hundred Villa troops attack Columbus, N. Mex., about 4.30. Villa probably in charge. Three American soldiers killed and several injured; also killed four civilians and wounded four. Several of attacking party killed and wounded by our forces. Attacking party also burned depot and principal buildings in Columbus. United States soldiers now pursuing attacking parties across the line into Mexico. No prisoners reported taken alive.

COBB.

* Printed from official texts furnished by the Department of State of the United States.

The Secretary of State to Consul Silliman.^{1 2}

[Telegram.]

DEPARTMENT OF STATE,
Washington, March 9, 1916.

Official reports just received from El Paso state that Gen. Villa, with several hundred men, early this morning attacked American garrison at Columbus, N. Mex., setting fire to principal buildings in town and killing a number of American soldiers and civilians. Other official reports from El Paso state that Villa's forces were well known to be in the Casas Grandes district several days ago, but that the forces of the *de facto* government were said to be insufficient to pursue them; also that, about that time, the Mexican consul at El Paso requested Gen. Carranza to furnish additional troops for the State of Chihuahua.

Convey foregoing to Gen. Carranza for his information and advise him that this government is suspending judgment until further facts can be learned, but you may say to him that this appears to be the most serious situation which has confronted this government during the entire period of Mexican unrest, and that it is expected that he will do everything in his power to pursue, capture, and exterminate this lawless element which is now proceeding westward from Columbus.

LANSING.

*The Secretary of State to all American consular officers in Mexico.*³

[Telegram.]

DEPARTMENT OF STATE,
Washington, March 10, 1916.

The following statement has just been given to the press by the President:

An adequate force will be sent at once in pursuit of Villa with the single object of capturing him and putting a stop to his forays. This can and will be done in entirely friendly aid of the constituted authorities in Mexico and with scrupulous respect for the sovereignty of that republic.

LANSING.

¹ Addressed, care American consul at Guadalajara.

² Repeated to Charles Parker, representing American interests, Mexico City, and to Consul Hanna at Monterey, with instructions to hand copy to Consul General Rodgers upon his arrival at Monterey.

³ Same to Charles Parker, representing American Interests, Mexico City.

Consul Silliman to the Secretary of State.

[Telegram.]

GUADALAJARA, MEXICO,

March 10, 1916.

Following just received from Secretary Acuna, which is transmitted in Spanish immediately to save time:

IRAPUTO, March 10, 11 p. m.

Number 51, Irapuato, 10. Guadalajara.

MR. SILLIMAN: Foreign Secretary further request confirmed at midnight. Will advise result this latter. Am advised recent development will urge news be suppressed in republic with view preventing demonstration. Reply follows:

[Translation.]

In due reply to your polite note dated yesterday and forwarded to-day by Mr. John W. Belt, I have the honor to inform you that upon my making the said note known to the Citizen First Chief of the Constitutionalist Army in Charge of the Executive Power of the Nation, he directed me to say to you, so that you may be pleased so to report to the Department of State of the Government of the United States, that he is grieved to hear (* * *)¹ the town of Columbus, N. Mex., on the occasion of the attack it suffered yesterday from the bandits led by Francisco Villa, that, although there has been in the State of Chihuahua a sufficient force to restore order and afford guarantees to nationals and foreigners since Francisco Villa began operations in the mountains of that State, on the request of the governor of the State and of the constitutional consul at El Paso, Tex., the First Chief issued in time orders for 2,000 men under command of Gen. Luis Gutierrez to sally forth under instructions to pursue the bandits who have just crossed into the territory of the United States, which they were no doubt compelled to do when persistently pursued by the said forces. The deplorable incident that has just occurred bears some resemblance to the raids effected by Indians from the reservations of the Government of the United States into the States of Sonora and Chihuahua. The Sonora raid took place about the year 1880, when the Indian Geronimo, who died a few years ago at Fort Mount, Ala., leading a large horde, invaded a community in the north of the State of Sonora and committed a number of murders and depredations, taking the lives and property of Mexican families, until after a long and persistent pursuit by Mexican and American forces the band of malefactors was annihilated and its chief captured. The invasion of Chihuahua led by the Indian Victor, followed by 800 Indians, took place from 1884 to 1886. The bands of foragers then went as far as the town of Tejolocho and Tres Castillos, very near the capital of Chihuahua, also committing many crimes; and at the first actual battle they had with the Mexican forces they scattered after losing their chief. In both these cases an agreement between the Governments of the United States and Mexico provided that armed forces of either country could freely cross into the territory of the other to pursue and chastise those

¹ Omission.

bands. Bearing in mind those precedents and the happy results to both countries yielded by the agreement above referred to, the government over which the Citizen First Chief presides, desiring to exterminate in as little time as possible the horde led by Francisco Villa, who was recently outlawed, to capture and inflict upon him the penalty of the law, applies through you, honorable Mr. Confidential Agent, to the Government of the United States and asks the permission necessary to let Mexican forces cross into American territory in pursuit of those bandits, acknowledging due reciprocity in regard to forces of the United States crossing into Mexican territory if the raid effected at Columbus should unfortunately be repeated at any other point of the border. The Government of Mexico would highly appreciate a prompt and favorable decision from the Government of the United States.

Be pleased, etc.,

ACUNA,
*In charge of the Department
of Foreign Relations.*
SILLIMAN.

The Secretary of State to Consul Silliman.¹

[Telegram.]

DEPARTMENT OF STATE,
Washington, March 13, 1916.

Your March 10, midnight.

You are instructed to reply as follows to Secretary Acuna's note of March 10:

The Government of the United States has received the courteous note of Señor Acuna and has read with satisfaction his suggestion for reciprocal privileges to the American and Mexican authorities in the pursuit and apprehension of outlaws who infest their respective territories lying along the international boundary and who are a constant menace to the lives and property of residents of that region.

The Government of the United States, in view of the unusual state of affairs which has existed for some time along the international boundary and earnestly desiring to coöperate with the *de facto* Government of Mexico to suppress this state of lawlessness, of which the recent attack on Columbus, N. Mex., is a deplorable example, and to insure peace and order in the regions contiguous to the boundary between the two republics, readily grants permission for military forces of the *de facto* Government of Mexico to cross the international boundary in pursuit of lawless bands of armed men who have entered Mexico from the United States, committed outrages on Mexican soil, and fled into the United States, on the understanding that the *de*

¹ Same to John W. Belt, Queretaro.

facto Government of Mexico grants the reciprocal privilege that the military forces of the United States may pursue across the international boundary into Mexican territory lawless bands of armed men who have entered the United States from Mexico, committed outrages on American soil, and fled into Mexico.

The Government of the United States understands that in view of its agreement to this reciprocal arrangement proposed by the *de facto* government, the arrangement is now complete and in force, and the reciprocal privileges thereunder may accordingly be exercised by either government without further interchange of views.

It is a matter of sincere gratification to the Government of the United States that the *de facto* Government of Mexico has evinced so cordial and friendly a spirit of coöperation in the efforts of the authorities of the United States to apprehend and punish the bands of outlaws who seek refuge beyond the international boundary in the erroneous belief that the constituted authorities will resent any pursuit across the boundary by the forces of the government whose citizens have suffered by the crimes of the fugitives.

With the same spirit of cordial friendship the Government of the United States will exercise the privilege granted by the *de facto* Government of Mexico in the hope and confident expectation that by their mutual efforts lawlessness will be eradicated and peace and order maintained in the territories of the United States and Mexico contiguous to the international boundary.

LANSING.

Mr. Belt to the Secretary of State.

[Telegram Extract.]

QUERETARO, MEXICO,
March 13, 1916.

Department's March 13, 3 p. m.

Reply of United States to *de facto* government's note of March 10, Columbus border situation, received at 5 this afternoon. Personally presented this important communication orally and in writing to Foreign Secretary Acuna at 5.30 p. m. He read same in my presence and afterwards stated:

I am pleased to receive a reply of this character from the Government of the United States. It will relieve the very delicate situation that has developed owing to the Columbus affair. I will immediately transmit this reply to the Chief Executive, and am of the opinion that there will be a reply to this courteous note expressing appreciation of same. In this event I shall deliver it to you immediately for transmittal to the Government of the United States.

JOHN W. BELT.

Statement for the press by the Secretary of State.

DEPARTMENT OF STATE.

Washington, March 13, 1916.

In order to remove any apprehensions that may exist either in the United States or in Mexico, the President has authorized me to give in his name the public assurance that the military operations now in contemplation by this government will be scrupulously confined to the object already announced, and that in no circumstances will they be suffered to trench in any degree upon the sovereignty of Mexico or develop into intervention of any kind in the internal affairs of our sister republic. On the contrary, what is now being done is deliberately intended to preclude the possibility of intervention.

ROBERT LANSING.

The Acting Secretary of State to all American consular officers in Mexico and to Mr. Parker at Mexico City.

[Telegram.]

DEPARTMENT OF STATE,

Washington, March 14, 1916.

Department's March 10, 6 p. m.

This government's expedition will shortly enter Mexico with sole object of pursuing and capturing Villa and his band for the outrage committed at Columbus, N. Mex., on March 9, when at least 16 Americans were killed, principal buildings burned, etc. Upon the determination of this government to send a punitive expedition into Mexico becoming known, the *de facto* government proposed that reciprocal privileges be granted should armed bands from the American side raid Mexican territory. Department's representative near Gen. Carranza last night delivered a note to the Mexican Foreign Secretary, in response to the proposal of the *de facto* government, granting permission for Mexican soldiers to cross international boundary in pursuit of lawless bands who may enter Mexico from the United States, commit outrages in Mexican territory, and thereafter return to the United States. After presentation note, Foreign Secretary informally stated he was pleased with same, and predicted that it would relieve delicate situation developed by Columbus affair.

POLK.

The Acting Secretary of State to Special Representative Rodgers.

[Telegram]

DEPARTMENT OF STATE,
Washington, March 18, 1916.

Request Gen. Carranza to issue necessary orders to appropriate Chihuahua authorities to permit this government to transport supplies for American troops now in pursuit of Villa and his band over the Northwestern Railway from Juarez to Casas Grandes or its vicinity. In making the request you will remind Gen. Carranza of this government's courtesy to him in repeatedly allowing his forces to use the railroads of this country. Telegraph reply as quickly as possible.

POLK.

*The Confidential Agent of the de facto Government of Mexico to the Secretary of State.*CONFIDENTIAL AGENCY OF THE
CONSTITUTIONALIST GOVERNMENT OF MEXICO.

Washington, March 18, 1916.

MR. SECRETARY: Reiterating the conversation I had to-day with Mr. Polk, Acting Secretary of State, in regard to the crossing of troops into Mexican territory, I am directed by my government to bring to your excellency's attention that the Chief Executive of Mexico is in receipt of reliable information that without the knowledge of, or advice to the nearest civil or military authorities, and without any intelligence between the Government of the United States and my government, an expedition described as punitive, for the purpose of pursuing Villa and his band, has entered Mexican territory via Palomas. Complying with the above instructions, I am directed to apprise your excellency of the above facts and to say that my government, upholding, on its part, the propositions contained in its note of the 10th instant, is of the opinion that the terms and conditions of an agreement which should be formally entered into between both countries have not been fixed concerning the crossing of troops, in order that one government and the other should feel authorized to send an expedition. The consent expressed by my government in regard to the crossing of armed troops

over our frontier line is being erroneously understood by taking it for granted that the crossing of a military expedition in pursuit of Villa has been permitted, and, furthermore, by the intent to have troops move over the line of the Northwestern Railway of Mexico, which runs between Ciudad Juarez and the southern part of the State of Chihuahua, inasmuch as the above-mentioned note states with perfect clearness that this government is disposed to act within the terms of strict reciprocity, if, unfortunately, from now on, any incursions similar to the one at Columbus or of any other character and at any other point of the line should occur: therefore, the above mentioned note should and must not be understood as tolerating or permitting any expeditions into the national territory. I am also instructed to make it clear to your excellency that the Mexican Government can not authorize right of the crossing into our territory of expeditions of American forces before the terms of the above mutual agreement are definitely and concisely fixed; and I am instructed to assure you, Mr. Secretary, that my government is studying with the urgency the case demands the propositions of the agreement to be submitted in due form, and as early as possible, so that it may be determined for once and at all times the matter in question.

With the assurances, etc.

E. ARREDONDO.

The Acting Secretary of State to the Confidential Agent of the de facto Government of Mexico.

DEPARTMENT OF STATE,
Washington, March 19, 1916.

MY DEAR MR. ARREDONDO: I beg to acknowledge your letter of March 18, 1916, inclosing a translation of the substance of the message from the Secretary for Foreign Affairs of Mexico, which you were good enough to read to me yesterday afternoon.

As I stated to you, it is a matter of sincere regret that there should have been any misunderstanding as to the attitude of Gen. Carranza in connection with the crossing of the border by United States troops while in pursuit of Villa. It was the impression of this Department,

as a result of the messages exchanged between this government and the *de facto* Government of Mexico, that your government fully understood and acquiesced in the arrangement proposed by the Minister of Foreign Relations, Señor Acuña, in his note of March 10, and accepted by this government in our note dated March 13, presented by Special Representative Silliman, whereby the troops of either government could, under certain conditions, pursue bandits into the territory of the other. With that understanding troops of the United States Government were directed to pursue our common enemy, as it was realized that no time was to be lost if the pursuit was to be effective. While our military commanders have been given explicit instructions to scrupulously respect the sovereignty of the Mexican Government, and we believe there will be no possibility of friction, yet this government would be glad to receive any suggestions your government may care to make as to the terms of a definite agreement to cover operation of troops either in our country or your country under these particular conditions.

I am, etc.,

FRANK L. POLK.

The Confidential Agent of the de facto Government of Mexico to the Secretary of State.

CONFIDENTIAL AGENCY OF THE
CONSTITUTIONALIST GOVERNMENT OF MEXICO,
Washington, March 19, 1916.

MR. SECRETARY: I am directed by my government to apprise your excellency that the office of the First Chief has been informed that the American forces now in Mexican territory intend to occupy the town of Casas Grandes, State of Chihuahua, and to say to you formally that as long as there is no agreement concerning the form in which bandits should be pursued along the boundary line, my government can not permit the occupation of Mexican towns by American forces, much less such towns as are occupied by our own troops, as this might give rise to frequent conflicts.

With the assurances, etc.

E. ARREDONDO.

Special Representative Rodgers to the Secretary of State.

[Telegram.]

Queretaro, Mexico, March 19, 1916.

Ten to-night sub-Secretary of State for Foreign Affairs called and presented reply to Department's March 18, 6 p. m., use of railways Chihuahua, transportation supplies, troops, requested transmission, the text of the note as follows:

Queretaro, March 19, 1916.

Having reported to the Citizen First Chief of the Constitutionalist Army in Charge of the Executive Power of the Union with your note of to-day's date, in which you quote the text of a message received by you yesterday from the Department of State of the United States, by order of the said high functionary, I beg you to transmit to the said department what follows by way of reply:

The note referred to has caused great surprise to the Mexican Government, for it had not until now received any official notice from the Government of the United States that American troops had crossed into Mexican territory or that they were at or near Casas Grandes, this government's surprise being made the greater from the fact that negotiations through the proper channels and occasioned by the Columbus incident are under way at this very moment to perfect agreements as to the terms and conditions of the convention that is to govern the passage of troops from one to the other country in the sense of the spirit of the note dated the 10th of this month addressed by the government over which the Citizen First Chief presides to the Government of the United States of America. The Mexican Government can not but wonder at the fact that the said troops should have crossed the boundary line and entered our territory without previous agreement, official communication, or notice of any kind and reached, as stated in the note referred to a place which, as is Casas Grandes, is much more distant from the boundary line than any other point which under previous treaties have been the extreme limit in cases of pursuits. To the end of maintaining unalterable the good relations that have always existed between the United States and Mexico, the Citizen First Chief of the Constitutionalist Army in Charge of the Executive Power of the Union deems it necessary, in order to act with full knowledge of the facts of the case in a matter of such great moment, that the Department of State of the United States of the North be pleased to furnish the government over which he presides with information as to the circumstances under which the passage of American troops into Mexican territory was affected at El Paso, their number, the branch of the service to which they belong, the name of the officer in command, the place where they are, and the causes which occasioned their crossing.

Hoping that you will be pleased to transmit the foregoing to the Department of State of the United States and impress it with the necessity of its prompt answer to the points set forth in the note above quoted, permit me to avail, etc.

AGUILAR,
Secretary of Relations.
RODGERS.

The Acting Secretary of State to Special Representative Rodgers.

[Telegram.]

DEPARTMENT OF STATE,
Washington, March 20, 1916.

Your March 19, 12 midnight.

You will express to Gen. Carranza in the terms of deepest consideration and friendly assurance the regret felt by this government over any apprehension he may feel or misunderstanding he may labor under in relation to the specific object of the expedition, the single purpose of which is to pursue and capture Villa, unless his prior capture should be effected by the forces of the *de facto* government. You will give Gen. Carranza every assurance that immediately upon the accomplishment of this purpose the forces of this government will retire from Mexican territory forthwith. From the very inception of the expedition our troops were given explicit instructions to scrupulously refrain from any act that might cause the slightest friction or the least criticism, and in future operations, in so far as possible, to conform with the suggestions of the *de facto* government; and this government confidently assures Gen. Carranza that our forces will not deviate from the directions given them. Therefore, as far as this government or its troops are concerned, there is no cause for the slightest misapprehension.

You will also say to Gen. Carranza that Señor Arredondo to-day submitted the draft for a reciprocal arrangement suggested telegraphically by the Minister of Foreign Relations; that this government agrees in principle; and that for better adaptability some modifications are now being given urgent consideration. This government realizes that such an arrangement will have an immediate and helpful effect and great influence upon the cordial relations of the two governments by terminating border outrages and abating frontier irritation.

Gen. Carranza should be informed that in the present instance, however, this government, actuated solely by the intention of furthering the amicable relations now existing between the two governments, accepted, without any hesitation, the proposal made by the Minister of Foreign Affairs, through Mr. Silliman, on March 10. The only hope of success depended upon quick action in the effort to capture Villa, who promises to be a constant menace to the friendship of our countries.

The troops which were sent across the border are under the command of Gen. John Pershing and consist of cavalry, infantry, and artillery.

Their location at the present time can not be stated with preciseness, but it is believed to be in the neighborhood of San Miguel. From all the advices received by the department, the expedition, in accordance with instructions, appears to be coöperating with the forces of the *de facto* government, and they are apparently working together in earnest and friendly endeavor to accomplish the ends so greatly to be desired by our governments.

You are directed to request Gen. Carranza to issue instructions to the Chihuahua authorities, directing them to give their full coöperation to the expedition. You may also say to Gen. Carranza that the department will telegraph within the next 24 hours, after consultation with Mr. Arredondo, a suggestion for greater coöperation of the two forces in the present expedition.

POLK.

Special Representative Rodgers to the Secretary of State.

[Telegram.]

Queretaro, Mexico, March 21, 1916.

Department's two, March 20, 11 p. m. pertaining to military expedition, received this afternoon and presented to Foreign Secretary at 7 p. m. Secretary promises to immediately present same to the Chief Executive.

RODGERS.

The Acting Secretary of State to the Confidential Agent of the de facto Government of Mexico.

DEPARTMENT OF STATE,
Washington, March 21, 1916.

Sir: I beg to acknowledge the receipt of your letter of March 19, 1916, relative to the occupation of Mexican towns by United States forces.

In reply, you are informed that Gen. Funston was instructed by telegraph on March 18, 1916, to direct Brig. Gen. Pershing to avoid occupying any Mexican town.

I am, etc.,

FRANK L. POLK.

Statement by the President on Mexican Affairs.

As has already been announced, the expedition into Mexico was ordered under an agreement with the *de facto* government of Mexico for the single purpose of taking the bandit Villa, whose forces had actually invaded the territory of the United States, and is in no sense intended as an invasion of that republic or as an infringement of its sovereignty. I have therefore asked the several news services to be good enough to assist the Administration in keeping this view of the expedition constantly before both the people of this country and the distressed and sensitive people of Mexico, who are very susceptible indeed to impressions received from the American press not only but also very ready to believe that those impressions proceed from the views and objects of our government itself. Such conclusions, it must be said, are not unnatural, because the main, if not the only source of information for the people on both sides of the border is the public press of the United States. In order to avoid the creation of erroneous and dangerous impressions in this way, I have called upon the several news agencies to use the utmost care not to give news stories regarding this expedition the color of war, to withhold stories of troop movements and military preparations which might be given that interpretation, and to refrain from publishing unverified rumors of unrest in Mexico. I feel that it is most desirable to impress upon both our own people and the people of Mexico the fact that the expedition is simply a necessary punitive measure, aimed solely at the elimination of the marauders who raided Columbus and who infest an unprotected district near the border which they use as a base in making attacks upon the lives and property of our citizens within our own territory. It is the purpose of our commanders to coöperate in every possible way with the forces of General Carranza in removing this cause of irritation to both governments and to retire from Mexican territory so soon as that object is accomplished.

It is my duty to warn the people of the United States that there are persons all along the border who are actively engaged in originating and giving as wide currency as they can to rumors of the most sensational and disturbing sort which are wholly unjustified by the facts. The object of this traffic in falsehood is obvious. It is to create intolerable friction between the Government of the United States and the *de facto* Government of Mexico, for the purpose of bringing about intervention in the interest of certain American owners of Mexican properties. This

object can not be attained so long as sane and honorable men are in control of this government, but very serious conditions may be created, unnecessary bloodshed may result, and the relations between the two republics may be very much embarrassed. The people of the United States should know the sinister and unscrupulous influences that are afoot and should be on their guard against crediting any story coming from the border; and those who disseminate the news should make it a matter of patriotism and of conscience to test the source and authenticity of every report they receive from that quarter.

WOODROW WILSON.

THE WHITE HOUSE,
March 25, 1916.

The Confidential Agent of the de facto Government of Mexico to the Secretary of State.

CONFIDENTIAL AGENCY OF THE
CONSTITUTIONALIST GOVERNMENT OF MEXICO,
Washington, April 13, 1916.

MR. SECRETARY: I have the honor to transmit to your excellency the full text of the following note which I have just received from my government:

QUERETARO, April 12, 1916.

MR. SECRETARY: The Mexican Government, in its desire to keep cordial and unalterable the good relations of friendship which ought to exist between Mexico and the United States, not only because this is the sentiment which animates the government itself, but owing to its desire to satisfy the spirit of Article 21 of the treaty of friendship concluded between the two countries under date of February 2, 1848, and in view of the lamentable occurrences which took place at Columbus on March 9, last, recalling historic precedents with respect to similar cases, did not hesitate to make to the government of the United States of America, under the aforesaid case of March 10, a proposition according to which the forces of both countries might reciprocally cross the boundary line in pursuit of raiders, if unfortunately there should be repeated along the frontier incidents such as that which occurred at Columbus, for from the very first the Mexican Government considered that, in view of the time which had elapsed and inasmuch as it was a question of a case already past, said incident could not be comprised within the proposition for a reciprocal passage of troops. For this reason the note of our government, delivered under date of March 10, very clearly indicates that the proposition embodied therein was conditional, or, what is the same, that reciprocity could take place *only provided the irruption recorded at Columbus were unfortunately repeated at any other point along the boundary line.*

The American Government, relying on the text of the aforementioned note and without having thoroughly comprehended its whole purport, conditionality and limitations, but rather believing in the existence of a definite agreement as indicated by the terms of the note of March 13, wherein it is stated "that the United States Government understands that in view of its consent to this reciprocal arrangement proposed by the de facto government, this arrangement is now complete and in force and that the aforementioned reciprocal privilege may be exercised by each government without future exchanges of ideas," considered itself authorized accordingly to send an expedition to Mexican territory which it has called punitive, for the purpose of pursuing and punishing Villa and his party of raiders, which expedition it sent several days after the malefactors had returned into Mexican territory.

On the 17th of March the Mexican Government sent a note to the American Government through our confidential agent at Washington, Mr. Licenciado Eliseo Arredondo, stating to it that it had received reliable information to the effect that, without the consent or advice of the political or civil authorities of our territory situated the nearest, and without any communication being sent meantime by the American to the Mexican Government, a so-called punitive expedition had passed via Palomas with a view to pursuing Villa and his party, and in consequence said confidential agent was instructed to call the attention of the United States Government to the facts that a false interpretation was being given to the text of the note of March 10, inasmuch as, while the Mexican Government was willing to adhere to its proposition regarding the reciprocal passage of troops, nevertheless no expedition could be sent until the terms and conditions of the agreement on the subject should become definite.

This government, in its note of March 17, insisted that the reciprocal passage of troops should be permitted only "*provided, unfortunately, there should be repeated in future irruptions such as that as occurred at Columbus or of any other kind at some place along the boundary line.*"

Meanwhile the Mexican Government, faithful to the proposition made and with the intention of strictly living up to its agreement, set about at once to prepare the draft of an agreement for the reciprocal passage of troops, which draft was presented in due form to the United States Government on March 18, last, it being hoped that the terms and conditions set forth in said agreement would meet its approval. The American Government, through our aforesaid confidential agent, communicated that it tentatively accepted the agreement and that only points of mere detail were being studied in order to render the agreement definite. At this state of affairs a note was presented on March 19 to this office by the Honorable Mr. James Linn Rodgers, as representative of the American Government in this city, requesting that the proper authorities of Chihuahua be given the necessary instructions to permit the transportation to Casas Grandes, over the Northwestern Railroad of Mexico, of some provisions for the American troops who were pursuing Villa and his party, and on the same date the Mexican Government, without complying with this request, answered the said note by expressing surprise that, without any official notice on the part of the United States Government, American troops had crossed into Mexican territory and that these troops were already at Casas Grandes or its vicinity, the surprise being increased by the fact that an endeavor was being made through the proper channels and on account of the lamentable occurrences at Columbus to per-

fect arrangements with respect to the terms and conditions of an agreement for the passage of troops of both countries, in accordance with the spirit of the note of March 10 as aforementioned.

On March 18 our confidential agent at Washington had an interview with the Honorable Mr. Frank L. Polk, then Acting Secretary of State, the latter having stated to our confidential agent that he regretted not having received the observations of the Mexican Government prior to the passage of the American forces over the boundary, which observation would have been duly heeded, and he assured him that the passage of these troops took place with the best of good faith in the understanding that it would not be necessary to enter into further details of the agreement, which was considered final and concluded. These declarations made by the Honorable Mr. Polk were confirmed in all their parts at the conference held on March 23 by our confidential agent with Your Excellency, who likewise stated that he regretted having misinterpreted the contents of said note respecting the passage of troops, which latter would not advance any farther south from the place where they were at that time, as he assured our confidential agent.

On March 19 the Honorable Mr. Polk addressed a letter to our confidential agent at Washington ratifying to him in writing the conference held on the day before and stating to him in a clear and positive manner that it was a cause of sincere regret that there should have been a misunderstanding in regard to the attitude of the First Chief with respect to the crossing of the border by troops of the United States in pursuit of Villa, for the Department of State of the United States thought that our government had given its full consent to an arrangement like that proposed by the then Secretary of Foreign Relations, Señor Licenciado Jesus Acuña, in his note dated March 10, which arrangement the Government of the United States accepted by note of the 10th of March which was delivered to this government by Special Representative Silliman and under which the troops of either nation could, subject to certain conditions, pursue bandits on the territory of the other.

In the declarations publicly made on March 26 by His Excellency President Wilson, that functionary used the following language: "As had already been announced the expedition to Mexico was ordered under an agreement with the de facto government of Mexico for the sole purpose of capturing the bandit Villa, whose forces had just invaded the territory of the United States, and under no pretext has it been a case of invading that republic or violating its sovereignty." This view expressed by his excellency President Wilson was corrected under date of the 31st of the same month of March through a message sent to our confidential agent in Washington, by which he was instructed to interview your excellency and duly call your attention to the view indicated, since the note dated March 10 bears on the reciprocal passage of troops solely in the case of a recurrence of incidents like that which took place at Columbus.

Lastly, your excellency, under date of the 3d of the current month, on delivering to our confidential agent the counter draft of agreement for the reciprocal crossing of troops with a view to its being offered to the consideration of the Government of Mexico, accompanied it with a note in which you say that the American Government trusts that the conditions set forth in the said agreement will not apply to the American forces at present on Mexican territory in pursuit of Villa, with assurances that in exercising that privilege of entering our territory those forces would confine their

military operations to the sole purpose of the expedition and would immediately thereupon return to their own country, and your excellency expresses thanks to the Mexican Government for achieving, as put by you, a convention by means of which the forces of the United States are given permission to pursue Villa and his party on Mexican territory, in the understanding that the American Government is disposed to respect the confidence therein evinced and will not in any way violate the sovereignty of Mexico or misuse the privilege so generously and freely granted to it.

Now the government of Mexico in proposing to that of the United States the conclusion of a formal convention for the reciprocal passage of troops in perfect accord as to the terms and conditions that are to govern such a passage, and relying on the character and nature of the notes exchanged on the subject as they are drawn from this note, necessarily believed in the supposition that the American Government was fully convinced that the expedition sent forth on Mexican territory in pursuit of Villa is without a foundation because of there existing no previous agreement on the subject which has been the only motive of the discussion until this moment.

Furthermore, the Honorable Secretary of State Polk, in the conference with our confidential agent in Washington, stated that the government of the United States had acted in good faith in sending its expedition into Mexico in pursuit of Villa, in the supposition that the note of March 10 contained a definite agreement; and that the American government agreed that the expedition should remain on Mexican territory only while the details of the agreement were being concluded.

If now the American government pretends that the expedition sent against Villa should be considered as an exceptional case, and that it should remain outside of the terms of the agreement, it appears altogether useless to continue discussing the conditions and details of same, because these details can be taken up later if it is considered necessary should a repetition of the lamentable incident happening at Columbus occur.

In consequence of the above, as a definite agreement has not been reached in respect to the terms of the agreement or treaty which would in general govern the reciprocal passage of troops across the border for the sole purpose of pursuing foraging bands which, in the future, may commit depredations in either of the countries, the government of Mexico believes that it is advisable, for the present to suspend all discussions or negotiations relative to this matter; and considering that the expedition sent by the government of the United States to pursue Villa is without warrant, under the circumstances, because there existed no previous formal or definite understanding; and because this expedition is not fulfilling its object and undoubtedly can not do so, because the band headed by Villa has already been dispersed; and finally because there are sufficient Mexican troops to pursue him and that more forces are being sent to exterminate the rest of the dispersed band, the First Chief of the Constitutionalist Army, invested with the executive power of the Union, considers that it is now time to treat with the Government of the United States upon the subject of the withdrawal of its forces from our territory.

I take this occasion, etc.

C. AGUILAR,
Secretary of Foreign Relations.

Accordingly, it gives me pleasure, etc.

E. ARREDONDO.

The Secretary of State to Special Representative Rodgers.

[Telegram.]

DEPARTMENT OF STATE,
Washington, April 14, 1916.

You will orally communicate to Gen. Carranza or Señor Aguilar in the following sense:

The department has received through Señor Arredondo the esteemed note of the *de facto* government of the 12th instant and has the matters of which it treats under careful consideration.

The intention of this government is the same as it was at the outset when United States troops entered Mexico—that is, to endeavor to take the bandit chief Villa. It desires to repeat again to the *de facto* government that it has no intention to violate in any way the sovereignty of Mexico and purposes to withdraw immediately as soon as the object of the expedition is accomplished. It would seem that the best way to hasten the withdrawal of the American troops would be for the *de facto* government to throw enough of their military forces into the region where Villa must be in hiding to insure his speedy capture. This government believes that it is correct in the view that the capture of Villa would result in more benefit to the *de facto* government than to the government of the United States. That his capture can be more speedily accomplished by coöperation between the forces of the two governments is manifest, which can be most practically accomplished through frequent conferences between the military commanders of the two governments in the field.

For the American troops to withdraw at once from Mexico would, in the view of this government, result in encouraging the Villista faction and also the followers of Diaz who are operating near the border. We assume that the *de facto* government would deplore such a result, and we hope, therefore, that it will approach the question of the withdrawal of the American troops in the most liberal spirit and with full knowledge that this government's actions are inspired only by a desire to accomplish the mutual object sought without in any way affecting the friendly relations now existing between the two governments.

LANSING.

The Mexican Secretary of Foreign Relations to the Secretary of State.

[Translation.]

MEXICO, FEDERAL DISTRICT,

May 22, 1916.

MR. SECRETARY: I am instructed by the First Chief of the Constitutionalist Army in charge of the Executive Power of the Union, to transmit to your excellency the following note:

1. The Mexican Government has just been informed that a body of American troops, crossing the international line, has entered Mexican territory, and is at present near a place called El Pino, some 60 miles to the south of the frontier.

The passage of these troops, again carried out without the consent of the Mexican Government, gravely endangers the harmony and good relations which should exist between the Government of the United States and that of Mexico.

This government is forced to consider this act as one violating the sovereignty of Mexico, and, in consequence, urgently requests that the Government at Washington give the matter its most careful consideration with a view to define, once for all, the policy which it should pursue as regards the Mexican nation.

In order to show as clearly as possible the motives prompting the request made in the present note, it is necessary, before all, to examine carefully the events which have occurred up to the present moment.

2. As a result of the raiding of Columbus, New Mexico, by a band headed by Francisco Villa, on the morning of the 9th of March, of the present year, the Mexican Government, sincerely lamenting the occurrence, and with a view to effectively protect the boundary, expressed the desire that the Governments of the United States and Mexico should reach an agreement providing for the pursuit of the raiders. The Mexican Government made this proposition, guided by the precedent established under similar conditions prevailing in the years 1880 to 1884, and made a concrete request that permission be given Mexican troops to pursue raiders into American territory, under the same reciprocal conditions governing the passage of American troops to Mexican soil, in case such raids as that on Columbus should be repeated at any other point along the border.

As a result of this proposition, made in the Mexican note of March 10th,

the Government of the United States, either in error or precipitately, formed the opinion that the friendly attitude shown by the Mexican Government was sufficient to consider itself authorized to cross the frontier, and effectively, without awaiting a formal agreement in the matter, ordered a large body of American troops to enter Mexican territory in pursuit of Villa and his band.

3. The American Government, on this occasion, gave emphatic assurances to that of Mexico of its good faith, stating that the only object in crossing the boundary was to pursue and capture or destroy the band of Villa which had raided Columbus; that this act was not to be taken as signifying an invasion of our territory, nor an intention to violate the sovereignty of Mexico; and that as soon as the object of the expedition had been practically accomplished, the American troops would be withdrawn from Mexican territory.

4. The Mexican Government was not informed that American troops had crossed the frontier until the 17th of March, when the fact was brought unofficially to its attention, through private sources from El Paso, that some American troops were already on Mexican territory. This government then sent a note to that of the United States stating that inasmuch as the terms and conditions of the agreement to be formally made between the two countries for the passage of troops had not been decided upon, the American Government could not consider itself authorized to carry out the expedition.

The Washington Government explained the sending of the troops into Mexico by stating that it regretted that there should have existed a misinterpretation of the attitude of the Mexican Government in the matter of the passage of troops from the frontier of the United States in pursuit of Villa, but that this had been done under the impression that the previous exchange of messages implied the full consent of Mexican Government, without further formalities.

The Government of the United States further explained its attitude by the necessity of rapid action, and added that it would gladly receive any indications which the Government of Mexico might wish to make in regard to the terms of a definitive arrangement covering the operation of the troops in one or the other countries.

5. Both Governments then lent themselves to a discussion of the terms of an arrangement, according to which the reciprocal passage of troops should be settled. Two proposals of the Mexican Government and two counter proposals of that of the United States were submitted.

In the discussion of this agreement the Mexican Government constantly insisted that the passage of troops should be limited, as to the zone of operations on foreign soil, to the time that said troops should remain thereon, to the number of soldiers which should constitute the expedition, and to the class of arms to compose said expedition. The government of the United States refused to accept these limitations, and, finally, when it did accept the last counter proposal, it stated that in consenting to sign the agreement, it was on condition that said agreement should not apply to the Columbus expedition.

6. This attitude of the American Government was the cause of the Mexican Government sending its note of the 12th of April, in which, leaving aside all discussion of the agreement, once that it was not to cover the Columbus case, it asked the American Government to withdraw its troops, inasmuch as their presence on Mexican soil was not founded on any agreement, and as there was no further object in their remaining, once that the Villa bandits had been scattered and destroyed.

7. Though the American Government gave no answer to the said note of the 12th of April, nor did it take steps to withdraw its troops, it deemed it opportune that representatives of the armies of both countries should meet at some point on the frontier to treat of the military aspect of the situation, and to see if it were possible, in this way, to reach a satisfactory solution, which, on the part of Mexico, consisted in the withdrawal of American troops from its territory.

With this end in view, a conference was arranged at Ciudad Jaurez and El Paso between Gens. Hugh L. Scott and Frederick Funston, representing the American Government, and the Secretary of War and Marine of Mexico, Gen. Alvaro Obregon. A series of sessions was held and was marked by a spirit of frank cordiality. During these conferences the military situation and all data and explanations relating thereto were fully discussed.

As a result thereof there was submitted for the approval of the Governments of Washington and Mexico a project of a memorandum, in which Gen. Scott declared that the destruction and dispersion of the Villa band had been accomplished, and that in consequence thereof the American Government had decided to begin the withdrawal of its troops, under the promise of the Mexican Government to guard the frontier in such a manner as to prevent a recurrence of raids similar to that on Columbus.

8. The Mexican Government refused to give its approval to this

class of agreement, as it provided, furthermore, that the American Government might suspend the withdrawal of troops if any further incident might happen which would lead it to believe that Mexico was not able to protect the frontier as agreed upon.

The Mexican Government could not accept this conditional clause, as the evacuation of its territory is a matter which pertains entirely to the sovereignty of the country and is conditional, in no case, on the criterion of the American Government. On the other hand, it was very possible that some incident might occur which would give an aspect of legality to the indefinite stay of American troops on Mexican soil.

9. This point was still being discussed by Gens. Scott, Funston, and Obregon when, on the 6th of the present month of May, a party of bandits attacked an American garrison at Glenn Springs, on the American side, crossing immediately thereafter the Rio Bravo and interning themselves by way of Boquillas, in Mexican territory.

10. In view of this and fearing that the American Government might hasten the sending of more troops into Mexico in pursuit of the bandits, the Mexican Government gave instructions to Gen. Obregon to notify that of the United States that it would not permit the further passage of American troops into Mexico on this account, and that orders had been given to all the military commanders along the frontier not to consent to same.

11. On learning the attitude of the Mexican Government, Gens. Scott and Funston assured Gen. Obregon that no orders had been issued to American troops to cross the frontier on account of the Boquillas raid, and that, furthermore, no more American troops would cross into our territory.

This statement was made personally by Gens. Scott and Funston to Gen. Obregon at the time of the suspension of the conferences and was reiterated by Gen. Scott himself, thereafter, in a private conversation with Licenciado Juan Neftali Amador, Subsecretary of Foreign Relations, who had taken part in the said conferences between the military representatives of the United States and Mexico.

12. As a result of the Glenn Springs or Boquillas incident, and to prevent groups of bandits from organizing and arming near the frontier and repeating their raids, and in order to bring about an effective military coöperation between the American and the Mexican forces, this government suggested, through its representative, Gen. Obregon, to

the representatives of the United States, Gens. Scott and Funston, the advisability of settling upon a military plan providing for the distribution of troops along the frontier in order to insure an effective vigilance of the entire region, and in this way prevent, as far as possible, a recurrence of the raids. The Mexican Government in this way demonstrated not alone its good faith and intentions, but also its real desire to cooperate effectively with the Government of the United States, and to avoid new causes of friction between the two governments.

This reciprocal plan for the distribution of American and Mexican forces, in their respective territories along the frontier, was proposed in order to avert any immediate new cause of difficulty, the right being reserved, always, to reach a subsequent agreement for the reciprocal passage of troops as long as the abnormal conditions existed in our territory.

13. The conferences between Gens. Scott, Funston, and Obregon were suspended on the 11th of May without an arrangement having been reached for the unconditional withdrawal of American troops. Gen. Scott insisted on the preparation of a memorandum for the conditional withdrawal of American troops, but did not take into consideration the plan proposed by the Mexican Government for the protection of the frontier by a distribution of troops along the same.

Under these conditions the work of concluding the negotiations initiated at Ciudad Jaurez and El Paso reverted to the Governments of Washington and Mexico. Up to this moment no complication had arisen in regard to the new incident at Boquillas, and all the assurances given by Gens. Scott and Funston led one to suppose that this incident would not cause new difficulties.

14. The Mexican Government, nevertheless, has just been advised that some 400 men of the 8th Regiment of the American Army are on Mexican soil, having crossed the line near Boquillas about the 10th or the 11th instant. They are at present near a place called El Pino, some 60 miles to the south of the frontier. This fact reached the knowledge of the Mexican authorities through the commander of the American forces which crossed the frontier, he having sent the Mexican military commander a communication from Esmeralda, in Sierra Mojada, stating that he had crossed the frontier in pursuit of the bandits who had attacked Glenn Springs, in virtue of an agreement existing between the American and the Mexican Governments providing for the passage of troops and also with the consent of a Mexican consular officer at Del

Rio, Tex., whom he stated he had informed of the passage of the troops of his command.

15. The Mexican Government can not suppose that the American Government has, for the second time, committed an error in ordering the passage of its troops into Mexico without the consent of this government. It is difficult to understand how an officer of the American Army could enter Mexican territory without the due authorization of his superior officers, or that he should think for a moment that permission for the passage of his troops could be obtained from a consular officer.

The explanation given by the American Government for the sending of troops from Columbus has never been satisfactory to the Mexican Government, but the new invasion of our territory is not now an isolated fact, and leads the Mexican Government to believe that it has to treat with something more than a simple error.

16. This last act of the American forces creates new complications with the Mexican Government, renders more distant the possibility of a satisfactory solution, and creates a more complicated situation between the two countries.

The Mexican Government can not but consider this last act an invasion of our territory by American forces contrary to the expressed wish of the Mexican Government, and it is its duty to request, and it does request, of the American Government, that it order the immediate withdrawal of these new forces, and that it abstain from sending any further expedition of a similar nature.

17. The Mexican Government understands the obligation incumbent upon it to guard the frontier, but this obligation is not exclusively Mexican, and it hopes that the American Government, on which falls a similar obligation, will appreciate the material difficulties to be met with in so doing, inasmuch as it appears that the American forces themselves, notwithstanding their numbers and the further fact that their attention is not divided by other military operations, find themselves physically unable to protect effectively the frontier on the American side.

The Mexican Government has made every effort on its part to protect the frontier without, on the other hand, abandoning the work of pacifying the rest of the country, and the American Government should understand that if from time to time these lamentable incursions into American territory are perpetrated by bandit groups, this fact is rather a matter of pecuniary reparation and a reason to provide for a combined

defense, but never the cause for the American forces to invade Mexican soil.

The raid of the bandit groups into American territory is a lamentable affair to be true, but one for which the Mexican Government, which is doing all possible to avoid a recurrence of such acts, can not be held responsible. The passage of American regular troops into Mexican territory against the expressed wish to the government does, indeed, constitute an act for which the American Government is responsible.

18. The Mexican Government believes, therefore, that the time has come to insist that the American Government withdraw the new expedition from Boquillas and that it abstain in the future from sending further troops across the border. At all events, the Mexican Government, having expressed clearly its nonconformity with the crossing of additional troops into Mexico, is forced to consider this as an act of invasion of its territory and, in consequence, will be obliged to defend itself against any body of American troops on its soil.

19. In regard to the troops which are now in the State of Chihuahua and which crossed as a result of the Columbus affair, the Mexican Government is forced to insist upon their withdrawal.

The Mexican Government is aware that in case of a refusal to retire these troops, there is no further recourse than to defend its territory by appeal to arms, yet at the same time it understands its duty to avoid, as far as possible, an armed conflict between both countries, and relying on Article 21 of the treaty of the 2d of February, of 1848, it considers it its duty to resort to every pacific method to solve the international conflict pending between the two countries.

20. The Mexican Government considers it necessary to take advantage of this opportunity to request of the American Government a more categorical definition of its true intentions toward Mexico. In this respect it hopes that, in expressing itself with entire frankness, its words be not so interpreted as intending to wound the susceptibilities of the American Government, but it finds itself in the necessity of laying aside diplomatic euphemisms and expressing itself with all possible clearness. If in stating the grievances which follow the Mexican Government uses the utmost frankness, it is because it considers it its duty to bring the point of view of the Mexican people as clearly as possible to the attention of the Government and the people of the United States.

21. The American Government for some time past has been making assurance of friendship to the Latin American people, and has taken

advantage of every opportunity to convince them that it wishes to respect their sovereignty absolutely.

Especially with respect to Mexico the American Government has declared on various occasions that it was not its intention to intervene in any manner in its interior affairs and that it desires to leave it to our country to work out alone its difficult and varied problems of political and social transformation.

Only recently, on the occasion of sending the expedition from Columbus, the American Government, through the President, declared that it would not intervene in the domestic affairs of Mexico, nor invade the country; that it did not desire an inch of its territory, and that under no circumstances would any attempt be made on its sovereignty.

The Government at Washington and its representatives at the frontier have further expressly stated that it is not the wish of the American people to enter into a war or an armed conflict with the Mexican people.

In summing up the matter, and judging by the official statements which have for some time past been made by the Government at Washington, one would think that there was a real desire on the part of the government and the people not to enter into conflict with Mexico.

22. The Mexican Government has, nevertheless, to confess that the acts of the American military authorities are in direct contradiction to the statements above referred to, and finds itself forced, therefore, to appeal to the President, the Department of State, the Senate and the American people, for a definition, once for all, of the true political intentions of the United States as regards Mexico.

23. It is equally imperative that the Government of the United States define, in a precise manner, its intentions as to Mexico, in order that the other Latin American nations might judge of their sincerity, and that they might appreciate the true value of the assurances of friendship and fraternity made to them for many years past.

24. The American Government stated, through the President himself, that the punitive expedition from Columbus would be withdrawn from Mexican territory as soon as the Villa band had been destroyed or dispersed. More than two months have passed since the expedition entered Mexican territory. Gens. Scott and Funston declared in Ciudad Juarez that the bands of Villa are completely dispersed, and yet American troops are not as yet withdrawn from Mexico.

The Government of the United States is convinced and is cognizant of the fact that there is no further work of a military nature to be per-

formed by the expedition from Columbus, and nevertheless it has not yet complied with the promise made by President Wilson that these troops would be withdrawn as soon as the motive for their entry into Mexico had been removed.

The motives for preserving interior political order which might militate against the withdrawal of the troops from Mexican territory, unfounded as they are, do not justify this attitude, but, on the contrary, accentuate the discrepancy between the assurances of respect for Mexico's sovereignty and the actual fact that for purely political reasons in the United States this state of affairs, so unjust towards the Mexican Republic, is allowed to continue.

25. The American Government stated that its intention in sending troops into Mexico was only to defend its frontier against possible incursions. This statement is, notwithstanding, in contradiction to the attitude assumed by the government itself in discussing the agreement in regard to a reciprocal crossing of the boundary, for while the Mexican Government insisted that this agreement limit the zone of operations of the troops of each country, the duration of the expeditions, the number of soldiers and the class to which they should belong, the American Government constantly eluded these limitations. This attitude of the American Government, which was the one which expected to cross the boundaries at such times as might be necessary, in pursuit of the bandits, is clearly indicating its intention of preparing to penetrate further into Mexican territory than the purposes of defense would seem to warrant.

26. The punitive expedition from Columbus, as it has been called, did not have, according to statements of President Wilson, any further object than to capture and punish the band guilty of the raid, and was organized under the supposition that the Mexican Government had consented thereto. Nevertheless it has shown an attitude of manifest distrust toward the Mexican Government and a spirit of such absolute independence that it can not but justly be considered as an invasion without Mexico's consent, without its knowledge and without the coöperation of its authorities.

It was well known that the Columbus expedition crossed the frontier without the knowledge of the Mexican Government. The American military authorities carried out this expedition without waiting to obtain the consent of the Government of Mexico, and even after they were officially advised that this government had not given its consent thereto,

they continued to send forward more troops without informing the Mexican Government thereof.

The expedition has crossed into and operated in Mexican territory without seeking the coöperation of the Mexican authorities. The American military authorities have maintained always the most complete silence respecting their movements, never informing the Mexican Government of them, as they would have done had they in reality desired to obtain the coöperation of the latter. This failure to advise and coöperate with the Mexican authorities was the cause of the encounter which took place in Parral between the American forces and Mexican citizens.

Finally, the Columbus expedition was effected not in a spirit of harmony but, on the contrary, of distrust and suspicion of our authorities, for not only was no effort made to seek our cooperation or to keep us informed regarding the military operations being carried out, but the said expedition was organized with artillery and infantry forces.

If it was intended to pursue a band of robbers, an act which, by its very nature, required rapidity, such pursuit should have been carried out by a squad of cavalry. The employment of artillery and of infantry can not be explained in any other way than as a measure of precaution against a probable attack by the Mexican forces.

Now, then, it is not possible to reconcile the declarations of friendly coöperation made by the American authorities with the use of the infantry and artillery, exclusively destined for use against the regular Mexican forces.

If the Columbus expedition had been carried out with the consent of the Mexican Government and the coöperation of the latter had been sought, the employment of the artillery and of the infantry would have been an insult to the Mexican authorities as offering a suggestion of the possibility of treachery on their part against the American forces who had entered Mexican territory in the pursuit of a common enemy, relying on the friendship of the former. It is preferable, notwithstanding, to interpret this as a proof that the American forces crossed into Mexican territory without the consent of the Mexican Government and were, therefore, resolved to repel any aggression on the part of the regular Mexican troops, who were ignorant of their presence.

All of this demonstrates a great discrepancy between the assurances on the part of the American authorities of a sincere and friendly coöperation and the actual purpose of the expedition, which, through its dis-

trust, the secrecy maintained regarding its movements, and the forces of which it was composed, clearly indicated the hostile nature of the expedition and an actual invasion of our territory.

27. The American Government has stated on various occasions that the Columbus expedition had no other object than that of pursuing and dispersing Villa's bands, and that so soon as this was accomplished its forces would retire.

The facts, however, have demonstrated that the intention of the American Government was no longer the same as during the conferences at Ciudad Juarez and El Paso. There is no other way of explaining why Gen. Scott should have insisted so emphatically on the signing of a memorandum which stated that the American forces would not have been withdrawn if any other occurrence took place which might convince the American Government of the inability of the Government of Mexico to protect the frontier. The conclusion to be deduced from this insistence of Gen. Scott, on the signing of this memorandum, is that the Columbus expedition entered Mexico promising to withdraw as soon as the bands of Villa had been destroyed, but that afterwards efforts were made to make use of the said expedition as a means to guarantee the protection to the frontier.

28. The American Government justly desires the protection of its frontier. If the frontier were duly protected against incursions from Mexico there would be now no reason for the existing difficulties. The American Government understands perfectly the difficulties which exist in the protection of a boundary which possesses no natural advantages for its defense, and, notwithstanding its enormous resources the American Government itself has been unable to afford an efficient protection along the more than 2,000 kilometers which it has to cover.

The Mexican Government proposed that the military chiefs at the head of the troops of each country should discuss a plan of distribution of troops along the boundary line, and notwithstanding the assurances of the Government of the United States that it desired to find a solution to the difficulties with Mexico, Gen. Scott would not agree to carry out this plan, which is the only rational one and the only one which could be effected without the necessity of one or the other country invading the territory of the other. The American Government prefers to maintain its troops inactive and idle on Mexican territory rather than to withdraw them and station them along the border by arrangement with the Mexican authorities who would agree to do the same. By acting as it

has the American Government leads us to suppose that its real intention is to keep these troops in Mexico in the event that it may need them there later for future operations.

29. The American Government on every occasion has declared itself as desirous of assisting the Constitutionalist Government in concluding its work of pacification, and of accomplishing this in the shortest possible times. The real attitude of the American Government in connection with these desires appears incongruous, as, for some time past, it has been committing various acts which indicate that it not only does not lend its aid in the pacification of Mexico but that, on the contrary, it seems to place every possible obstacle in the way of attaining such an end. In reality, without considering the great volume of diplomatic representations which under the pretext of protection of established American interests in Mexico, constantly impede the labor of the new government in its efforts to reorganize the political, economic and social conditions of the country on new bases, a large number of other acts seem to show that the influence of the American Government is directed against the consolidation of the present Mexican Government.

The decided aid lent at one time to Villa by Gen. Scott and the Department of State was itself the principal cause of the prolonged civil war in Mexico. Later the continuous aid extended by the American Catholic clergy to that of Mexico, which labored unceasingly against the Constitutionalist Government, and the constant activity of the American press favoring intervention and the interests of the business men of the United States, are still further indications that the present American Government can not or will not prevent the work of conspiracy which is being effected in the United States against the Constitutionalist Government.

30. The American Government incessantly demands from the Mexican Government an effective protection of its frontier, and yet the greater part of the bands which take the name of rebels against this government are cared for and armed, if they are not also organized, on the American side under the tolerance of the authorities of the State of Texas, and, it may even be said, that of the Federal authorities of the United States. The leniency of the American authorities respecting these bands is such that in a majority of the cases the conspirators, who are well known, when they have been discovered and taken to prison, obtain their liberty by insignificant promises which allows them to continue in their efforts.

The Mexican emigrants who conspire and organize incursions from the United States side have now more facilities for doing harm than formerly, for they know that any new difficulty between Mexico and the United States will prolong the stay of the American troops. They endeavor therefore to increase the possibilities of conflict and friction.

31. The American Government says it will aid the Constitutionalist Government in its labor of pacification and demands urgently that such pacification be effected in the quickest possible time, and that at the same time the protection of the frontiers shall be effected in the most efficacious manner. Yet notwithstanding this, it has on various occasions detained the shipments of arms and munitions purchased by the Mexican Government in the United States, destined to be employed in accelerating the work of pacification and in the more effective protection of the frontier. The pretexts for detaining the shipments of munitions consigned to this government have always been futile, and a frank reason has never been given. It has been said, for example, that the munitions have been embargoed because of the fact that the true owner was not known, or because of the fear that they might fall into the hands of the Villistas.

The embargo on stores consigned to the Mexican Government can be interpreted in no other way than that the American Government desired to be on its guard against the emergency of a possible future conflict and for that reason tries to prevent arms and stores from reaching the Mexican Government, as they may eventually be used against the Americans themselves. The American Government would be within its rights in guarding against such an emergency, but in such a case it should not claim that it is trying to coöperate with the Mexican Government, and it would be better to show a greater frankness in its procedure.

Either the American Government really and decidedly wishes to assist the Mexican Government in reëstablishing peace, and in this event it should not impede the movement of arms, or else its real intention is to prepare itself so that in the event of future war with Mexico this country may find itself less provided with arms and provisions. If the latter is true it would be better to say so.

In any event the embargo on arms and supplies consigned to the Mexican authorities, effected under the weak pretext of preventing such arms and munitions from falling into the hands of the Villistas, is a clear indication that the real acts of the military authorities are completely

out of accord with the proposals of peace on the part of the American Government.

The Mexican Government does not wish war with the United States, and if this should occur it will be as a consequence of the deliberate cause by the United States. To-day these measures of precaution by the American Government show that there is a desire to be prepared for such an emergency, or, what amounts to the same thing, they manifest an attitude of hostility on the part of the United States toward Mexico.

32. Finally, the American authorities in New York, at the suggestion of a neutral society of pacifists, have ordered the detention of certain pieces of machinery which the Mexican Government removed to Mexico for the manufacture of munitions, which machinery could not be utilized for several months after bringing it to this country. This act of the American Government which tends to prevent the manufacture of munitions at a remote future time, is another clear indication that its true attitude toward Mexico is not a peaceful one, for, while millions and millions of dollars worth of arms and ammunition are exported for the European war without these societies of pacifists of the United States being perturbed thereby, the authorities of New York show themselves too much disposed to support the demands of these humanitarian societies when they deal with the proposition of exporting to Mexico machinery for the manufacture of its arms and supplies.

Mexico has the unquestionable right, as does the United States and all other nations of the world, to provide for its military necessities, above all when it finds itself confronted by a task so vast as that of accomplishing the internal pacification of this country; and the act of the United States in embargoing machinery destined for the manufacture of munitions indicates either that the United States wishes to place obstacles in the way of complete pacification or that this act is only one of a series effected by the authorities of the United States in providing against a possible war with Mexico.

33. All the circumstances hereinbefore mentioned indicate that the real objects of the military authorities of the United States are in absolute contradiction to the continued declarations of friendship on the part of the American Government toward Mexico.

34. The people and the Government of Mexico are absolutely sure that the American people do not desire war with Mexico. There are none the less great American and great Mexican interests anxious for a conflict between the two countries. The Mexican Government firmly

desires to maintain peace with the American Government, but to this end it is indispensable that the American Government explain frankly its true attitude toward Mexico.

It is indispensable that this contradiction between the assurances of friendship on the part of Washington and the acts of suspicion and distrust and aggression on the part of the military authorities should disappear.

The people and Government of Mexico must know what to expect, and wish to be sure that the assurances so many times expressed by the Government of the United States correspond really to its sincere desire for friendship between the two countries, friendship that should exist not only in the statements but which should be crystallized into acts.

The Mexican Government invites the Government of the United States to bring about a cessation of this situation of uncertainty between the two countries and to support its declarations and assurances of friendship with real and effective acts which shall convince the Mexican people of the sincerity of its proposals. These acts, at the moment can not be other than the immediate withdrawal of the American troops which are to-day on Mexican territory.

In complying with the instructions of the Citizens' First Chief, I avail myself of this opportunity to offer your excellency the assurances of my most distinguished consideration.

THE SECRETARY:
C. AGUILAR.

The Secretary of State to the Secretary of Foreign Relations of the de facto Government of Mexico.

DEPARTMENT OF STATE,
Washington, June 20, 1916.

SIR: I have read your communication, which was delivered to me on May 22, 1916, under instructions of the Chief Executive of the *de facto* Government of Mexico, on the subject of the presence of American troops in Mexican territory, and I would be wanting in candor if I did not, before making answer to the allegations of fact and the conclusions reached by your government, express the surprise and regret which have been caused this government by the discourteous tone and temper of this last communication of the *de facto* Government of Mexico.

The Government of the United States has viewed with deep concern and increasing disappointment the progress of the revolution in Mexico. Continuous bloodshed and disorders have marked its progress. For three years the Mexican Republic has been torn with civil strife; the lives of Americans and other aliens have been sacrificed; vast properties developed by American capital and enterprise have been destroyed or rendered nonproductive; bandits have been permitted to roam at will through the territory contiguous to the United States and to seize, without punishment or without effective attempt at punishment, the property of Americans, while the lives of citizens of the United States who ventured to remain in Mexican territory or to return there to protect their interests have been taken, and in some cases barbarously taken, and the murderers have neither been apprehended nor brought to justice. It would be difficult to find in the annals of the history of Mexico conditions more deplorable than those which have existed there during these recent years of civil war.

It would be tedious to recount instance after instance, outrage after outrage, atrocity after atrocity, to illustrate the true nature and extent of the widespread conditions of lawlessness and violence which have prevailed. During the past nine months in particular, the frontier of the United States along the lower Rio Grande has been thrown into a state of constant apprehension and turmoil because of frequent and sudden incursions into American territory and depredations and murders on American soil by Mexican bandits, who have taken the lives and destroyed the property of American citizens, sometimes carrying American citizens across the international boundary with the booty seized. American garrisons have been attacked at night, American soldiers killed and their equipment and horses stolen; American ranches have been raided, property stolen and destroyed, and American trains wrecked and plundered. The attacks on Brownsville, Red House Ferry, Progreso Post Office, and Las Peladas, all occurring during September last, are typical. In these attacks on American territory, Carrancista adherents, and even Carrancista soldiers took part in the looting, burning and killing. Not only were these murders characterized by ruthless brutality, but uncivilized acts of mutilation were perpetrated. Representations were made to General Carranza and he was emphatically requested to stop these reprehensible acts in a section which he has long claimed to be under the complete domination of his authority. Notwithstanding these representations and the promise of General Nafarrete

to prevent attacks along the international boundary, in the following month of October a passenger train was wrecked by bandits and several persons killed seven miles north of Brownsville, and an attack was made upon United States troops at the same place several days later. Since these attacks leaders of the bandits well known both to Mexican civil and military authorities as well as to American officers have been enjoying with impunity the liberty of the towns of northern Mexico. So far has the indifference of the *de facto* government to these atrocities gone that some of these leaders, as I am advised, have received not only the protection of that government, but encouragement and aid as well.

Depredations upon American persons and property within Mexican jurisdiction have been still more numerous. This government has repeatedly requested in the strongest terms that the *de facto* government safeguard the lives and homes of American citizens and furnish the protection, which international obligation imposes, to American interests in the northern States of Tamaulipas, Nuevo Leon, Coahuila, Chihuahua, and Sonora, and also in the States to the south. For example, on January 3d troops were requested to punish the bands of outlaws which looted the Cusi mining property, eighty miles west of Chihuahua, but no effective results came from this request. During the following week the bandit Villa with his band of about 200 men was operating without opposition between Rubio and Santa Ysabel, a fact well known to Carrancista authorities. Meanwhile a party of unfortunate Americans started by train from Chihuahua to visit the Cusi mines, after having received assurances from the Carrancista authorities in the State of Chihuahua that the country was safe, and that a guard on the train was not necessary. The Americans held passports or safe conducts issued by authorities of the *de facto* government. On January 10th the train was stopped by Villa bandits and eighteen of the American party were stripped of their clothing and shot in cold blood, in what is now known as "the Santa Ysabel massacre." General Carranza stated to the agent of the Department of State that he had issued orders for the immediate pursuit, capture, and punishment of those responsible for this atrocious crime, and appealed to this government and to the American people to consider the difficulties of according protection along the railroad where the massacre occurred. Assurances were also given by Mr. Arredondo, presumably under instructions from the *de facto* government, that the murderers would be brought to justice, and that steps would also be taken to remedy the lawless condi-

tions existing in the State of Durango. It is true that Villa, Castro, and Lopez were publicly declared to be outlaws and subject to apprehension and execution, but so far as known, only a single man personally connected with this massacre has been brought to justice by Mexican authorities. Within a month after this barbarous slaughter of inoffensive Americans it was notorious that Villa was operating within twenty miles of Cusihiuriachic, and publicly stated that his purpose was to destroy American lives and property. Despite repeated and insistent demands that military protection should be furnished to Americans, Villa openly carried on his operations, constantly approaching closer and closer to the border. He was not intercepted, nor were his movements impeded by troops of the *de facto* government, and no effectual attempt was made to frustrate his hostile designs against Americans. In fact, as I am informed, while Villa and his band were slowly moving toward the American frontier in the neighborhood of Columbus, New Mexico, not a single Mexican soldier was seen in his vicinity. Yet the Mexican authorities were fully cognizant of his movements, for on March 6th, as General Gavira publicly announced, he advised the American military authorities of the outlaw's approach to the border, so that *they* might be prepared to prevent him from crossing the boundary. Villa's unhindered activities culminated in the unprovoked and cold-blooded attack upon American soldiers and citizens in the town of Columbus on the night of March 9th, the details of which do not need repetition here in order to refresh your memory with the heinousness of the crime. After murdering, burning, and plundering, Villa and his bandits fleeing south passed within sight of the Carrancista military post at Casas Grandes, and no effort was made to stop him by the officers and garrison of the *de facto* government stationed there.

In the face of these depredations not only on American lives and property on Mexican soil but on American soldiers, citizens and homes on American territory, the perpetrators of which General Carranza was unable or possibly considered it inadvisable to apprehend and punish, the United States had no recourse other than to employ force to disperse the bands of Mexican outlaws who were with increasing boldness systematically raiding across the international boundary. The marauders engaged in the attack on Columbus were driven back across the border by American cavalry, and subsequently, as soon as a sufficient force to cope with the band could be collected, were pursued into Mexico in an effort to capture or destroy them. Without coöperation or assistance

in the field on the part of the *de facto* government, despite repeated requests by the United States, and without apparent recognition on its part of the desirability of putting an end to these systematic raids, or of punishing the chief perpetrators of the crimes committed, because they menaced the good relations of the two countries, American forces pursued the lawless bands as far as Parral, where the pursuit was halted by the hostility of Mexicans, presumed to be loyal to the *de facto* government, who arrayed themselves on the side of outlawry and became in effect the protectors of Villa and his band.

In this manner and for these reasons have the American forces entered Mexican territory. Knowing fully the circumstances set forth the *de facto* government cannot be blind to the necessity which compelled this government to act and yet it has seen fit to recite groundless sentiments of hostility toward the expedition and to impute to this government ulterior motives for the continued presence of American troops on Mexican soil. It is charged that these troops crossed the frontier without first obtaining the consent or permission of the *de facto* government. Obviously, as immediate action alone could avail, there was no opportunity to reach an agreement (other than that of March 10th-13th now repudiated by General Carranza) prior to the entrance of such an expedition into Mexico if the expedition was to be effective. Subsequent events and correspondence have demonstrated to the satisfaction of this government that General Carranza would not have entered into any agreement providing for an effective plan for the capture and destruction of the Villa bands. While the American troops were moving rapidly southward in pursuit of the raiders, it was the form and nature of the agreement that occupied the attention of General Carranza rather than the practical object which it was to attain—the number of limitations that could be imposed upon the American forces to impede their progress rather than the obstacles that could be raised to prevent the escape of the outlaws. It was General Carranza who suspended through your note of April 12th all discussions and negotiations for an agreement along the lines of the protocols between the United States and Mexico concluded during the period 1882-1896, under which the two countries had so successfully restored peaceful conditions on their common boundary. It may be mentioned here that, notwithstanding the statement in your note that “the American Government gave no answer to the note of the 12th of April,” this note was replied to on April 14th, when the Department instructed Mr. Rodgers by telegraph to deliver

this Government's answer to General Carranza. Shortly after this reply the conferences between Generals Scott, Funston and Obregon began at El Paso, during which they signed on May 2d a project of a memorandum *ad referendum* regarding the withdrawal of American troops. As an indication of the alleged bad faith of the American Government, you state that though General Scott declared in this memorandum that the destruction and dispersion of the Villa band "had been accomplished," yet American forces are not withdrawn from Mexico. It is only necessary to read the memorandum, which is in the English language, to ascertain that this is clearly a misstatement, for the memorandum states that "the American punitive expeditionary forces have destroyed or dispersed many of the lawless elements and bandits, * * * or have driven them far into the interior of the Republic of Mexico," and further, that the United States forces were then "carrying on a vigorous pursuit of such small numbers of bandits or lawless elements as may have escaped." The context of your note gives the impression that the object of the expedition being admittedly accomplished, the United States had agreed in the memorandum to begin the withdrawal of its troops. The memorandum shows, however, that it was not alone on account of partial dispersion of the bandits that it was decided to begin the withdrawal of American forces, but equally on account of the assurances of the Mexican Government that their forces were "at the present time being augmented and strengthened to such an extent that they will be able to prevent any disorders occurring in Mexico that would in any way endanger American territory," and that they would "continue to diligently pursue, capture or destroy any lawless bands of bandits that may still exist or hereafter exist in the northern part of Mexico," and that it would "make a proper distribution of such of its forces as may be necessary to prevent the possibility of invasion of American territory from Mexico." It was because of these assurances and because of General Scott's confidence that they would be carried out that he stated in the memorandum that the American forces would be "*gradually* withdrawn." It is to be noted that, while the American Government was willing to ratify this agreement, General Carranza refused to do so, as General Obregon stated, because, among other things, it imposed improper conditions upon the Mexican Government.

Notwithstanding the assurances in the memorandum, it is well known that the forces of the *de facto* government have not carried on a vigorous pursuit of the remaining bandits and that no proper distribution of forces

to prevent the invasion of American territory has been made, as will be shown by the further facts hereinafter set forth. I am reluctant to be forced to the conclusion which might be drawn from these circumstances that the *de facto* government, in spite of the crimes committed and the sinister designs of Villa and his followers, did not and does not now intend or desire that these outlaws should be captured, destroyed, or dispersed by American troops or, at the request of this government, by Mexican troops.

While the conferences at El Paso were in progress, and after the American conferees had been assured on May 2d that the Mexican forces in the northern part of the republic were then being augmented so as to be able to prevent any disorders that would endanger American territory, a band of Mexicans, on the night of May 5th, made an attack at Glenn Springs, Texas, about twenty miles north of the border, killing American soldiers and civilians, burning and sacking property and carrying off two Americans as prisoners. Subsequent to this event, the Mexican Government, as you state, "gave instructions to General Obregon to notify that of the United States that it would not permit the further passage of American troops into Mexico on this account, and that orders had been given to all military commanders along the frontier not to consent to same." This government is of course not in a position to dispute the statement that these instructions had been given to General Obregon, but it can decisively assert that General Obregon never gave any such notification to General Scott or General Funston or, so far as known, to any other American official. General Obregon did, however, inquire as to whether American troops had entered Mexico in pursuit of the Glenn Springs raiders, and General Funston stated that no orders had been issued to American troops to cross the frontier on account of the raid, but this statement was made before any such orders had been issued, and not afterwards, as the erroneous account of the interview given in your note would appear to indicate. Moreover, no statement was made by the American generals that "no more American troops would cross into our territory." On the contrary, it was pointed out to General Obregon and to Mr. Juan Amador, who was present at the conference, and pointed out with emphasis, that the bandits de la Rosa and Pedro Vino, who had been instrumental in causing the invasion of Texas above Brownsville, were even then reported to be arranging in the neighborhood of Victoria for another raid across the border, and it was made clear to General Obregon that if the Mexican

Government did not take immediate steps to prevent another invasion of the United States by these marauders, who were frequently seen in the company of General Nafarrete, the Constitutionalist commander, Mexico would find in Tamaulipas another punitive expedition similar to that then in Chihuahua. American troops crossed into Mexico on May 10th, upon notification to the local military authorities, under the repudiated agreement of March 10-13th, or in any event in accordance with the practice adopted over forty years ago, when there was no agreement regarding pursuit of marauders across the international boundary. These troops penetrated 168 miles into Mexican territory in pursuit of the Glenn Springs marauders without encountering a detachment of Mexican troops or a single Mexican soldier. Further discussion of this raid, however, is not necessary, because the American forces sent in pursuit of the bandits recrossed into Texas on the morning of May 22d, the date of your note under consideration—a further proof of the singleness of purpose of this government in endeavoring to quell disorder and stamp out lawlessness along the border.

During the continuance of the El Paso conferences, General Scott, you assert, did not take into consideration the plan proposed by the Mexican Government for the protection of the frontier by the reciprocal distribution of troops along the boundary. This proposition was made by General Obregon a number of times, but each time conditioned upon the immediate withdrawal of American troops, and the Mexican conferees were invariably informed that *immediate* withdrawal could not take place, and that therefore it was impossible to discuss the project on that basis.

I have noted the fact that your communication is not limited to a discussion of the deplorable conditions existing along the border and their important bearing on the peaceful relations of our governments, but that an effort is made to connect it with other circumstances in order to support, if possible, a mistaken interpretation of the attitude of the Government of the United States toward Mexico. You state in effect that the American Government has placed every obstacle in the way of attaining the pacification of Mexico, and that this is shown by the volume of diplomatic representations in behalf of American interests which constantly impede efforts to reorganize the political, economical, and social conditions of the country; by the decided aid lent at one time to Villa by American officers and by the Department of State; by the aid extended by the American Catholic clergy to that of Mexico; by

the constant activity of the American press in favor of intervention and the interests of American business men; by the shelter and supply of rebels and conspirators on American territory; by the detention of shipments of arms and munitions purchased by the Mexican Government; and by the detention of machinery intended for their manufacture.

In reply to this sweeping charge, I can truthfully affirm that the American Government has given every possible encouragement to the *de facto* government in the pacification and rehabilitation of Mexico. From the moment of its recognition, it has had the undivided support of this government. An embargo was placed upon arms and ammunition going into Chihuahua, Sonora, and Lower California, in order to prevent their falling into the hands of the armed opponents of the *de facto* government. Permission has been granted from time to time, as requested, for Mexican troops and equipment to traverse American territory from one point to another in Mexico in order that the operations of Mexican troops against Villa and his forces might be facilitated. In view of these friendly acts, I am surprised that the *de facto* government has construed diplomatic representations in regard to the unjust treatment accorded American interests, private assistance to opponents to the *de facto* government by sympathizers in a foreign country, and the activity of a foreign press as interference by the United States Government in the domestic politics of Mexico. If a denial is needed that this government has had ulterior and improper motives in its diplomatic representations, or has countenanced the activities of American sympathizers and the American press opposed to the *de facto* government, I am glad most emphatically to deny it. It is, however, a matter of common knowledge that the Mexican press has been more active than the press in the United States in endeavoring to inflame the two peoples against each other and to force the two countries into hostilities. With the power of censorship of the Mexican press, so rigorously exercised by the *de facto* government, the responsibility for this activity cannot, it would seem, be avoided by that government, and the issue of the appeal of General Carranza himself in the press of March 12th, calling upon the Mexican people to be prepared for any emergency which might arise, and intimating that war with the United States was imminent, evidences the attitude of the *de facto* government toward these publications. It should not be a matter of surprise that, after such manifestations of hostile feeling, the United States was doubtful of the purpose for which the large amount of ammunition was to be

used which the *de facto* government appeared eager to import from this country. Moreover, the policy of the *de facto* government in refusing to coöperate and in failing to act independently in destroying the Villa bandits and in otherwise suppressing outlawry in the vicinity of the border so as to remove the danger of war materials, while passing southward through this zone, falling into the hands of the enemies of law and order is, in the opinion of this government, a sufficient ground, even if there were no other, for the refusal to allow such materials to cross the boundary into the bandit-infested region. To have permitted these shipments without careful scrutiny would, in the circumstances, have been to manifest a sense of security which would have been unjustified.

Candor compels me to add that the unconcealed hostility of the subordinate military commanders of the *de facto* government toward the American troops engaged in pursuing the Villa bands and the efforts of the *de facto* Government to compel their withdrawal from Mexican territory by threats and show of military force instead of by aiding in the capture of the outlaws constitute a menace to the safety of the American troops and to the peace of the border. As long as this menace continues and there is any evidence of an intention on the part of the *de facto* government or its military commanders to use force against the American troops instead of coöperating with them, the Government of the United States will not permit munitions of war or machinery for their manufacture to be exported from this country to Mexico.

As to the shelter and supply of rebels and conspirators on American territory, I can state that vigorous efforts have been and are being made by the agents of the United States to apprehend and bring to justice all persons found to be conspiring to violate the laws of the United States by organizing to oppose with arms the *de facto* Government of Mexico. Political refugees have undoubtedly sought asylum in the United States, but this government has vigilantly kept them under surveillance and has not hesitated to apprehend them upon proof of their criminal intentions, as the arrest of General Huerta and others fully attests.

Having corrected the erroneous statements of fact to which I have adverted, the real situation stands forth in its true light. It is admitted that American troops have crossed the international boundary in hot pursuit of the Columbus raiders and without notice to or the consent of your government but the several protestations on the part of this government by the President, by this department, and by other American authorities, that the object of the expedition was to capture, destroy,

or completely disperse the Villa bands of outlaws or to turn this duty over to the Mexican authorities when assured that it would be effectively fulfilled, have been carried out in perfect good faith by the United States. Its efforts, however, have been obstructed at every point; first, by insistence on a palpably useless agreement which you admit was either not to apply to the present expedition or was to contain impracticable restrictions on its organization and operation; then by actual opposition, encouraged and fostered by the *de facto* government, to the further advance of the expedition into Villa territory, which was followed by the sudden suspension of all negotiations for an arrangement for the pursuit of Villa and his followers and the protection of the frontier; and finally by a demand for the immediate withdrawal of the American troops. Meantime, conditions of anarchy in the border States of Mexico were continually growing worse. Incursions into American territory were plotted and perpetrated; the Glenn Springs raid was successfully executed, while no effective efforts were being made by General Carranza to improve the conditions and to protect American territory from constant threat of invasion. In view of this increasing menace, of the inactivity of the Carranza forces, of the lack of coöperation in the apprehension of the Villa bands, and of the known encouragement and aid given to bandit leaders, it is unreasonable to expect the United States to withdraw its forces from Mexican territory or to prevent their entry again when their presence is the only check upon further bandit outrages and the only efficient means of protecting American lives and homes—safeguards which General Carranza, though internationally obligated to supply, is manifestly unable or unwilling to give.

In view of the actual state of affairs as I have outlined it above, I am now in a position to consider the conclusions which you have drawn in your note under acknowledgment from the erroneous statements of fact which you have set forth.

Your government intimates, if it does not openly charge, that the attitude of the United States is one of insincerity, distrust, and suspicion toward the *de facto* Government of Mexico, and that the intention of the United States in sending its troops into Mexico is to extend its sovereignty over Mexican territory, and not merely for the purpose of pursuing marauders and preventing future raids across the border. The *de facto* government charges by implication which admits of but one interpretation, that this government has as its object territorial aggrandizement even at the expense of a war of aggression against a

neighbor weakened by years of civil strife. The Government of the United States, if it had had designs upon the territory of Mexico, would have had no difficulty in finding during this period of revolution and disorder many plausible arguments for intervention in Mexican affairs. Hoping, however, that the people of Mexico would through their own efforts restore peace and establish an orderly government, the United States has awaited with patience the consummation of the revolution.

When the superiority of the revolutionary faction led by General Carranza became undoubted, the United States, after conferring with six others of the American Republics, recognized unconditionally the present *de facto* government. It hoped and expected that that government would speedily restore order and provide the Mexican people and others, who had given their energy and substance to the development of the great resources of the republic, opportunity to rebuild in peace and security their shattered fortunes.

This government has waited month after month for the consummation of its hope and expectation. In spite of increasing discouragements, in spite of repeated provocations to exercise force in the restoration of order in the northern regions of Mexico, where American interests have suffered most seriously from lawlessness, the Government of the United States has refrained from aggressive action and sought by appeals and moderate though explicit demands to impress upon the *de facto* government the seriousness of the situation and to arouse it to its duty to perform its international obligations toward citizens of the United States who had entered the territory of Mexico or had vested interests within its boundaries.

In the face of constantly renewed evidences of the patience and restraint of this government in circumstances which only a government imbued with unselfishness and a sincere desire to respect to the full the sovereign rights and national dignity of the Mexican people would have endured, doubts and suspicions as to the motives of the Government of the United States are expressed in your communication of May 22d, for which I can imagine no purpose but to impugn the good faith of this government for I find it hard to believe that such imputations are not universally known to be without the least shadow of justification in fact.

Can the *de facto* government doubt that, if the United States had turned covetous eyes on Mexican territory, it could have found many pretexts in the past for the gratification of its desire? Can that govern-

ment doubt that months ago, when the war between the revolutionary factions was in progress, a much better opportunity than the present was afforded for American intervention, if such has been the purpose of the United States as the *de facto* government now insinuates? What motive could this government have had in refraining from taking advantage of such opportunities other than unselfish friendship for the Mexican Republic? I have of course given consideration to your argument that the responsibility for the present situation rests largely upon this government. In the first place, you state that even the American forces along the border whose attention is undivided by other military operations, "Find themselves physically unable to protect effectively the frontier on the American side." Obviously, if there is no means of reaching bands roving on Mexican territory and making sudden dashes at night into American territory it is impossible to prevent such invasions unless the frontier is protected by a cordon of troops. No government could be expected to maintain a force of this strength along the boundary of a nation with which it is at peace for the purpose of resisting the onslaughts of a few bands of lawless men, especially when the neighboring state makes no effort to prevent these attacks. The most effective method of preventing raids of this nature, as past experience has fully demonstrated, is to visit punishment or destruction on the raiders. It is precisely this plan which the United States desires to follow along the border without any intention of infringing upon the sovereign rights of her neighbor, but which, although obviously advantageous to the *de facto* government, it refuses to allow or even countenance. It is in fact protection to American lives and property about which the United States is solicitous and not the methods or ways in which that protection shall be accomplished. If the Mexican Government is unwilling or unable to give this protection by preventing its territory from being the rendezvous and refuge of murderers and plunderers, that does not relieve this government from its duty to take all the steps necessary to safeguard American citizens on American soil. The United States Government can not and will not allow bands of lawless men to establish themselves upon its borders with liberty to invade and plunder American territory with impunity and, when pursued, to seek safety across the Rio Grande, relying upon the plea of their government that the integrity of the soil of the Mexican Republic must not be violated.

The Mexican Government further protests that it has "made every effort on its part to protect the frontier" and that it is doing "all pos-

sible to avoid a recurrence of such acts." Attention is again invited to the well-known and unrestricted activity of de la Rosa, Ancieto Piscano, Pedro Vino and others in connection with border raids and to the fact that, as I am advised, up to June 4th de la Rosa was still collecting troops at Monterey for the openly avowed purpose of making attacks on Texan border towns and that Pedro Vino was recruiting at other places for the same avowed purpose. I have already pointed out the uninterrupted progress of Villa to and from Columbus, and the fact that the American forces in pursuit of the Glenn Springs marauders penetrated 168 miles into Mexican territory without encountering a single Carrancista soldier. This does not indicate that the Mexican Government is doing "all possible" to avoid further raids; and if it is doing "all possible," this is not sufficient to prevent border raids, and there is every reason, therefore, why this government must take such preventive measures as it deems sufficient.

It is suggested that injuries suffered on account of bandit raids are a matter of "pecuniary reparation" but "never the cause for American forces to invade Mexican soil." The precedents which have been established and maintained by the Government of the Mexican Republic for the last half century do not bear out this statement. It has grown to be almost a custom not to settle depredations of bandits by payments of money alone, but to quell such disorders and to prevent such crimes by swift and sure punishment.

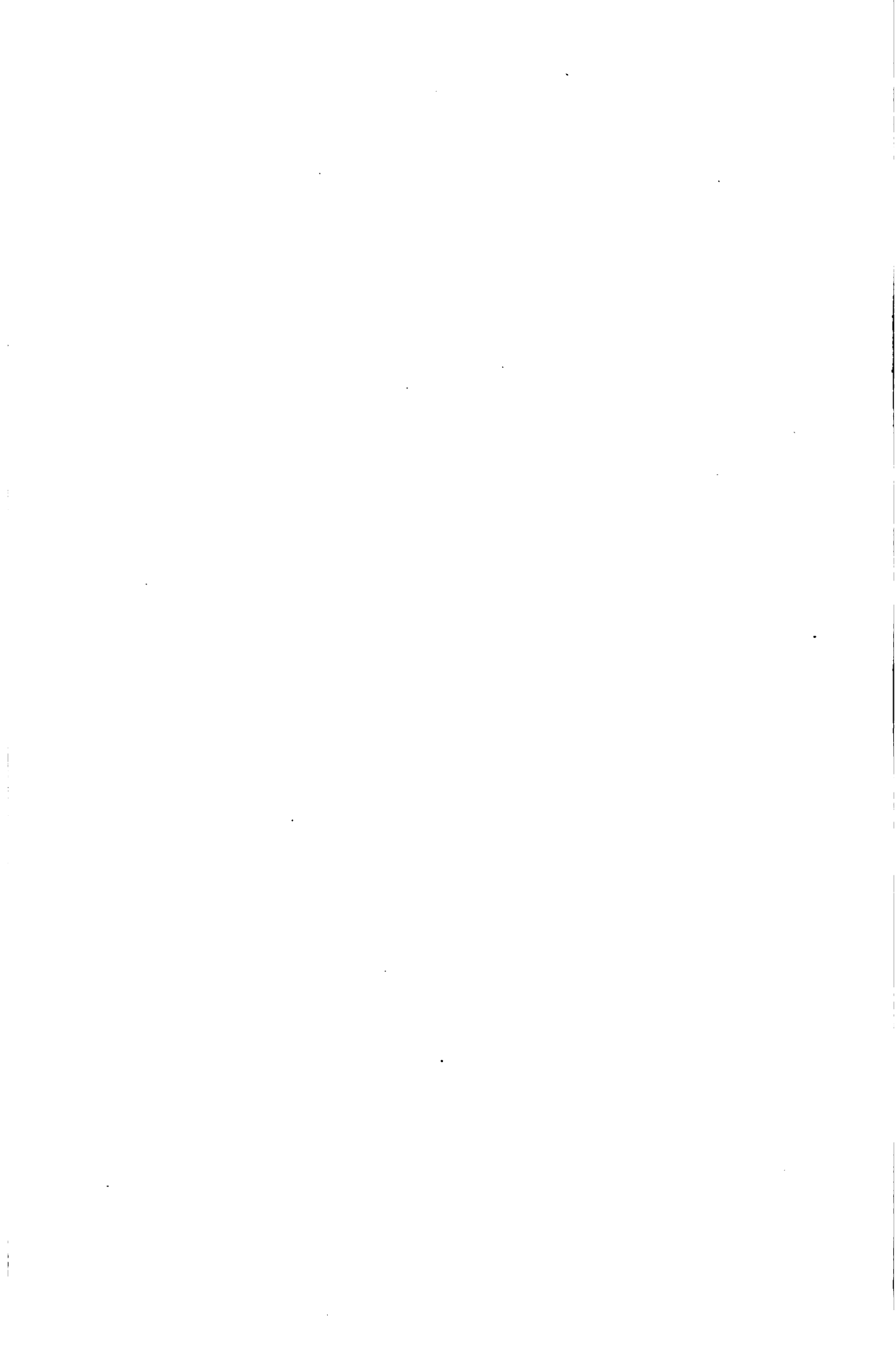
The *de facto* government finally argues that "if the frontier were duly protected from incursions from Mexico there would be no reason for the existing difficulty"; thus the *de facto* government attempts to absolve itself from the first duty of any government, namely, the protection of life and property. This is the paramount obligation for which governments are instituted, and governments neglecting or failing to perform it are not worthy of the name. This is the duty for which General Carranza, it must be assumed, initiated his revolution in Mexico and organized the present government and for which the United States Government recognized his government as the *de facto* government of Mexico. Protection of American lives and property, then, in the United States is first the obligation of this government, and in Mexico is, first, the obligation of Mexico, and second, the obligation of the United States. In securing this protection along the common boundary the United States has a right to expect the cooperation of its neighboring republic; and yet, instead of taking steps to check or punish the raiders, the

de facto government demurs and objects to measures taken by the United States. The Government of the United States does not wish to believe that the *de facto* government approves these marauding attacks, yet as they continue to be made, they show that the Mexican Government is unable to repress them. This inability, as this government has had occasion in the past to say, may excuse the failure to check the outrages complained of, but it only makes stronger the duty of the United States to prevent them, for if the Government of Mexico can not protect the lives and property of Americans, exposed to attack from Mexicans, the Government of the United States is in duty bound, so far as it can, to do so.

In conclusion, the Mexican Government invites the United States to support its "assurances of friendship with real and effective acts" which "can be no other than the immediate withdrawal of the American troops." For the reasons I have herein fully set forth, this request of the *de facto* government can not now be entertained. The United States has not sought the duty which has been forced upon it of pursuing bandits who under fundamental principles of municipal and international law, ought to be pursued and arrested and punished by Mexican authorities. Whenever Mexico will assume and effectively exercise that responsibility the United States, as it has many times before publicly declared, will be glad to have this obligation fulfilled by the *de facto* government of Mexico. If, on the contrary, the *de facto* government is pleased to ignore this obligation and to believe that "in case of a refusal to retire these troops there is no further recourse than to defend its territory by an appeal to arms," the Government of the United States would surely be lacking in sincerity and friendship if it did not frankly impress upon the *de facto* government that the execution of this threat will lead to the gravest consequences. While this government would deeply regret such a result, it cannot recede from its settled determination to maintain its national rights and to perform its full duty in preventing further invasions of the territory of the United States and in removing the peril which Americans along the international boundary have borne so long with patience and forbearance.

Accept, etc.,

ROBERT LANSING.



OFFICIAL DOCUMENTS

RECOMMENDATIONS OF THE ECONOMIC CONFERENCE OF THE ALLIED GOVERNMENTS ¹

(Translation)

PARIS, *June 17, 1916.*

The representatives of the Allied Governments have met in Paris, Mr. Clémentel, Minister of Commerce, presiding, on the 14th, 15th, 16th, and 17th of June, 1916, for the purpose of fulfilling the mandate which was confided to them by the conference of Paris on March 28, 1916, to put into practice their solidarity of views and interests and to propose to their respective governments suitable measures for realizing this solidarity.

They perceive that the Central Powers of Europe, after having imposed upon them their military struggle in spite of all their efforts to avoid the conflict, are preparing to-day, in concert with their allies, a struggle in the economic domain which will not only survive the re-establishment of peace but, at that very moment, will assume all its amplitude and all its intensity.

They can not in consequence conceal from themselves that the agreement which is being prepared for this purpose amongst their enemies has for its evident object the establishment of their domination over the production and the markets of the whole world and to impose upon the other countries an unacceptable hegemony.

In the face of such a grave danger, the representatives of the Allied Governments consider that it is their duty, on the grounds of necessary and legitimate defense, to take and realize from now onward all the measures requisite on the one hand to secure for themselves and the whole of the markets of neutral countries full economic independence and respect for sound commercial practice, and on the other to facilitate the organization on a permanent basis of this economic alliance. For

¹ Transmitted by the American Ambassador at Paris and published by the Department of State.

this purpose the representatives of the Allied Governments have decided to submit for the approval of their governments the following resolutions:

A

Measures For War Period.

I

Laws and regulations prohibiting trading with the enemy shall be brought into accord, for this purpose:

a. The Allies will prohibit their own subjects and citizens and all persons residing in their territories from carrying on any trade with the inhabitants of enemy countries of whatever nationality, or with enemy subjects, wherever resident, persons, firms, and companies whose business is controlled wholly or partially by enemy subjects or subject to enemy influence, whose names will be included in a special list.

b. The Allies will also prohibit importation into their territories of all goods originating or coming from enemy countries.

c. The Allies will further devise means of establishing a system of enabling contracts entered into with enemy subjects and injurious to national interests to be canceled unconditionally.

II

Business undertakings, owned or operated by enemy subjects in the territories of the Allies, are all to be sequestered or placed under control. Measures will be taken for the purpose of winding up some of these undertakings and realizing the assets, the proceeds of such realizations remaining sequestered or under control. In addition, by export prohibitions, which are necessitated by the internal situation of each of the allied countries, the Allies will complete the measures already taken for the restriction of enemy supplies both in the mother countries and the dominions, colonies, and protectorates—

1. By unifying lists of contraband and export prohibition, particularly by prohibiting the export of all commodities declared absolute or conditional contraband:

2. By making the grant of licenses to export to neutral countries, from which export to the enemy territories might take place, conditional upon the existence in such countries of control organizations approved by the Allies, or, in the absence of such organizations, upon special

guarantees, such as the limitation of the quantities to be exported and supervision by allied consular officers, etc.

B

Transitory Measures For The Period of The Commercial, Industrial, Agricultural, and Maritime Reconstruction of The Allied Countries.

I

The Allies declare their common determination to insure the reestablishment of the countries suffering from acts of destruction, spoliation, and unjust requisition, and they decide to join in devising means to secure the restoration to those countries, as a prior claim, of their raw materials, industrial, agricultural plant and stock, and mercantile fleet, or to assist them to reëquip themselves in these respects.

II

Whereas the war has put an end to all treaties of commerce between the Allies, and enemy Powers, and it is of essential importance that during the period of economic reconstruction the liberty of none of the Allies should be hampered by any claim put forward by enemy Powers to most favored nation treatment, the Allies agree that the benefit of this treatment will not be granted to those Powers during a number of years, to be fixed by mutual agreement among themselves.

During this number of years the Allies undertake to assure each other, so far as possible, compensatory outlets for trade in case consequences detrimental to their commerce should result from the application of the undertaking referred to in the preceding clause.

III

The Allies declare themselves agreed to conserve for the allied countries, before all others, their natural resources during the whole period of the commercial, industrial, agricultural, and maritime reconstruction, and for this purpose they undertake to establish special arrangements to facilitate the interchange of these resources.

IV

In order to defend their commerce and industry and their agriculture and navigation against economic aggression, resulting from dumping

or any other mode of unfair competition, the Allies decide to fix by agreement a period of time during which commerce with the enemy Powers will be submitted to special treatment, and goods, originating from their countries, will be subjected either to prohibitions or to a special régime of an effective character. The Allies will determine by agreement, through diplomatic channels, the special conditions to be imposed during the above-mentioned period on the ships of enemy powers.

V

The Allies will devise measures to be taken jointly or severally for preventing enemy subjects from exercising in their territories certain industries or professions which concern national defense or economic independence.

C

Permanent Measures of Mutual Assistance and Collaboration Among The Allies

I

The Allies decide to take the necessary steps without delay to render themselves independent of enemy countries in so far as regards raw materials and manufactured articles essential to the normal development of their economic activities. These measures will be directed to assuring the independence of the Allies, not only so far as concerns sources of supply, but also as regards their financial, commercial, and maritime organization. The Allies will adopt such measures as seem to them most suitable for the carrying out of this resolution according to the nature of the commodities and having regard to the principles which govern their economic policy. They may, for example, have recourse to either enterprises subsidized and directed or controlled by the governments themselves or to the grant of financial assistance for the encouragement of scientific and technical research and the development of national industries and resources, or to customs duties or prohibitions of a temporary or permanent character, or to a combination of these different methods.

Whatever may be the methods adopted, the object aimed at by the Allies is to increase the production within their territories as a whole to a sufficient extent to enable them to maintain and develop their economic position and independence in relation to enemy countries.

II

In order to permit the interchange of their products, the Allies undertake to adopt measures facilitating mutual trade relations, both by the establishment of direct and rapid land and sea transport service at low rates and by the extension and improvement of postal, telegraphic, and other communications.

III

The Allies undertake to convene a meeting of technical delegates to draw up measures for the assimilation, so far as may be possible, of their laws governing patents, indications of origin and trade marks. In regard to patents, trade marks, literary and artistic copyright which come into existence during the war in enemy countries, the Allies will adopt, so far as possible, an identical procedure to be applied as soon as hostilities cease. This procedure will be elaborated by the technical delegates of the Allies.

D

Whereas for the purpose of their common defense against the enemy, the Allied Powers have agreed to adopt a common economic policy on the lines laid down in the resolutions which have been passed; and whereas it is recognized that the effectiveness of this policy depends absolutely upon these resolutions being put into operation forthwith, the representatives of the Allied Governments undertake to recommend that their respective Governments shall take, without delay, all the measures, whether temporary or permanent, requisite to giving full and complete effect to this policy forthwith, and to communicate to each other the decisions arrived at to attain the object.

Paris, June 17, 1916.

Have signed these resolutions:

FOR FRANCE.

M. E. CLEMENTEL,
Ministre du Commerce et de l'Industrie.

M. G. DOUMERGUE,
Ministre des Colonies.

- M. M. SEMBAT,
Ministre des Travaux Publics.
- M. A. METIN,
Ministre du Travail et de la Prévoyance Sociale.
- M. J. THIERRY,
Sous-Secrétaire d'Etat de la Guerre (Service de l'Intendance).
- M. L. NAIL,
Sous-Secrétaire d'Etat de la Marine (Marine marchande).
- M. J. CAMBON,
Ambassadeur de France, Secrétaire Général du Ministère des Affaires étrangères.
- M. A. MASSE,
Secrétaire Général du Ministère de l'Agriculture.
- M. J. BRANET,
Directeur Général des Douanes.
- M. P. DE MARGERIE,
Ministre Plénipotentiaire, Directeur des Affaires Politiques et Commerciales au Ministère des Affaires étrangères.

FOR BELGIUM.

- M. DE BROQUEVILLE,
Président du Conseil, Ministre de la Guerre.
- M. le BARON BEYENS,
Ministre des Affaires étrangères.
- M. VAN DE VYVERE,
Ministre des Finances.
- M. le Comte GOBLET D'ALVIELLA,
Membre du Conseil des Ministres.

FOR GREAT BRITAIN.

- M. le MARQUIS DE CREWE,
Lord President du Conseil privé.
- M. A. BONAR LAW,
Ministre des Colonies.
- M. W. M. HUGHES,
Premier Ministre d'Australie.
- Sir GEORGE FOSTER,
Ministre du Commerce du Canada.

FOR ITALY.

S. Exc. M. TITTONI,
Ambassadeur d'Italie à Paris.
M. DANELO,
Ministre des Finances.

FOR JAPAN.

M. le BARON SAKATANI,
Ancien Ministre des Finances.

FOR PORTUGAL.

M. le Docteur ALFONSO COSTA,
Ministre des Finances.
M. le Docteur AUGUSTO SOARES,
Ministre des Affaires étrangères.

FOR RUSSIA.

M. POKROWSKY,
Contrôleur de l'Empire, Conseiller privé.
M. PRILEJAIEFF,
*Adjoint au Ministre du Commerce et de l'Industrie, Conseiller
privé.*

FOR SERVIA.

M. MARINKOVITCH,
Ministre du Commerce.

TREATY BETWEEN HAITI AND THE UNITED STATES REGARDING THE FINANCES, ECONOMIC DEVELOPMENT AND TRANQUILLITY OF HAITI ¹

Signed at Port-au-Prince, September 16, 1915; ratifications exchanged, May 3, 1916

PREAMBLE

The United States and the Republic of Haiti desiring to confirm and strengthen the amity existing between them by the most cordial coöperation in measures for their common advantage;

And the Republic of Haiti desiring to remedy the present condition of its revenues and finances, to maintain the tranquillity of the Republic, to carry out plans for the economic development and prosperity of the Republic and its people;

And the United States being in full sympathy with all of these aims and objects and desiring to contribute in all proper ways to their accomplishment;

The United States and the Republic of Haiti have resolved to conclude a convention with these objects in view, and have appointed for that purpose, plenipotentiaries,

The President of the United States, Robert Beale Davis, Junior, Chargé d'Affaires of the United States;

And the President of the Republic of Haiti, Louis Borno, Secretary of State for Foreign Affairs and Public Instruction, who, having exhibited to each other their respective powers, which are seen to be full in good and true form, have agreed as follows:

ARTICLE I

The Government of the United States will, by its good offices, aid the Haitian Government in the proper and efficient development of its agricultural, mineral and commercial resources and in the establishment of the finances of Haiti on a firm and solid basis.

ARTICLE II

The President of Haiti shall appoint, upon nomination by the President of the United States, a General Receiver and such aids and employ-

¹ U. S. Treaty Series, No. 623.

ees as may be necessary, who shall collect, receive and apply all customs duties on imports and exports accruing at the several custom houses and ports of entry of the Republic of Haiti.

The President of Haiti shall appoint, upon nomination by the President of the United States, a Financial Adviser, who shall be an officer attached to the Ministry of Finance, to give effect to whose proposals and labors the Minister will lend efficient aid. The Financial Adviser shall devise an adequate system of public accounting, aid in increasing the revenues and adjusting them to the expenses, inquire into the validity of the debts of the Republic, enlighten both governments with reference to all eventual debts, recommend improved methods of collecting and applying the revenues, and make such other recommendations to the Minister of Finance as may be deemed necessary for the welfare and prosperity of Haiti.

ARTICLE III

The Government of the Republic of Haiti will provide by law or appropriate decrees for the payment of all customs duties to the General Receiver, and will extend to the Receivership, and to the Financial Adviser, all needful aid and full protection in the execution of the powers conferred and duties imposed herein; and the United States on its part will extend like aid and protection.

ARTICLE IV

Upon the appointment of the Financial Adviser, the Government of the Republic of Haiti, in coöperation with the Financial Adviser, shall collate, classify, arrange and make full statement of all the debts of the Republic, the amounts, character, maturity and condition thereof, and the interest accruing and the sinking fund requisite to their final discharge.

ARTICLE V

All sums collected and received by the General Receiver shall be applied, first to the payment of the salaries and allowances of the General Receiver, his assistants and employees and expenses of the Receivership, including the salary and expenses of the Financial Adviser, which salaries will be determined by previous agreement; second, to the interest and sinking fund of the public debt of the Republic of Haiti; and, third, to the maintenance of the constabulary referred to in Article X,

and then the remainder to the Haitian Government for purposes of current expenses.

In making these applications the General Receiver will proceed to pay salaries and allowances monthly and expenses as they arise, and on the first of each calendar month, will set aside in a separate fund the quantum of the collection and receipts of the previous month.

ARTICLE VI

The expenses of the Receivership, including salaries and allowances of the General Receiver, his assistants and employees, and the salary and expenses of the Financial Adviser, shall not exceed five per centum of the collections and receipts from customs duties, unless by agreement by the two governments.

ARTICLE VII

The General Receiver shall make monthly reports of all collections, receipts and disbursements to the appropriate officer of the Republic of Haiti and to the Department of State of the United States, which reports shall be open to inspection and verification at all times by the appropriate authorities of each of the said governments.

ARTICLE VIII

The Republic of Haiti shall not increase its public debt except by previous agreement with the President of the United States, and shall not contract any debt or assume any financial obligation unless the ordinary revenues of the Republic available for that purpose, after defraying the expenses of the government, shall be adequate to pay the interest and provide a sinking fund for the final discharge of such debt.

ARTICLE IX

The Republic of Haiti will not without a previous agreement with the President of the United States, modify the customs duties in a manner to reduce the revenues therefrom; and in order that the revenues of the Republic may be adequate to meet the public debt and the expenses of the government, to preserve tranquillity and to promote material prosperity, the Republic of Haiti will coöperate with the Financial Adviser in his recommendations for improvement in the methods of collecting and disbursing the revenues and for new sources of needed income.

ARTICLE X

The Haitian Government obligates itself, for the preservation of domestic peace, the security of individual rights and full observance of the provisions of this treaty, to create without delay an efficient constabulary, urban and rural, composed of native Haitians. This constabulary shall be organized and officered by Americans, appointed by the President of Haiti, upon nomination by the President of the United States. The Haitian Government shall clothe these officers with the proper and necessary authority and uphold them in the performance of their functions. These officers will be replaced by Haitians as they, by examination, conducted under direction of a board to be selected by the senior American officer of this constabulary and in the presence of a representative of the Haitian Government, are found to be qualified to assume such duties. The constabulary herein provided for, shall, under the direction of the Haitian Government, have supervision and control of arms and ammunition, military supplies, and traffic therein, throughout the country. The high contracting parties agree that the stipulations in this article are necessary to prevent factional strife and disturbances.

ARTICLE XI

The Government of Haiti agrees not to surrender any of the territory of the Republic of Haiti by sale, lease, or otherwise, or jurisdiction over such territory, to any foreign government or power, nor to enter into any treaty or contract with any foreign power or powers that will impair the independence of Haiti.

ARTICLE XII

The Haitian Government agrees to execute with the United States a protocol for the settlement, by arbitration or otherwise, of all pending pecuniary claims of foreign corporations, companies, citizens or subjects against Haiti.

ARTICLE XIII

The Republic of Haiti, being desirous to further the development of its natural resources, agrees to undertake and execute such measures as in the opinion of the high contracting parties may be necessary for the sanitation and public improvement of the Republic under the supervision and direction of an engineer or engineers, to be appointed by the

President of Haiti upon nomination by the President of the United States, and authorized for that purpose by the Government of Haiti.

ARTICLE XIV

The high contracting parties shall have authority to take such steps as may be necessary to insure the complete attainment of any of the objects comprehended in this treaty; and, should the necessity occur, the United States will lend an efficient aid for the preservation of Haitian independence and the maintenance of a government adequate for the protection of life, property and individual liberty.

ARTICLE XV

The present treaty shall be approved and ratified by the high contracting parties in conformity with their respective laws, and the ratifications thereof shall be exchanged in the City of Washington as soon as may be possible.

ARTICLE XVI

The present treaty shall remain in full force and virtue for the term of ten years, to be counted from the day of exchange of ratifications, and further for another term of ten years if, for specific reasons presented by either of the high contracting parties, the purpose of this treaty has not been fully accomplished.

In faith whereof, the respective plenipotentiaries have signed the present convention in duplicate, in the English and French languages, and have thereunto affixed their seals.

Done at Port-au-Prince, Haiti, the 16th day of September in the year of our Lord one thousand nine hundred and fifteen.

ROBERT BEALE DAVIS, JR. [SEAL.]

Chargé d'Affaires of the United States.

LOUIS BORN, [SEAL.]

Secrétaire d'Etat des Relations Extérieures et de l'Instruction Publique.

AGREEMENT BETWEEN RUSSIA AND JAPAN¹

Signed at Petrograd, July 3/ June 20, 1916.

The Imperial Governments of Japan and Russia, having resolved by united efforts to maintain permanent peace in the Far East, have agreed upon the following:

ARTICLE I

Japan will not become party to any arrangement or political combination directed against Russia.

Russia will not become party to any arrangement or political combination directed against Japan.

ARTICLE II

In case the territorial rights or special interests in the Far East of one of the contracting parties recognized by the other contracting party are menaced, Japan and Russia will act in concert on the measures to be taken in view of the support or coöperation necessary for the protection and defence of these rights and interests.

In faith of which the undersigned, duly authorized by their respective governments, have signed this convention and thereto affixed their seals.

Done at Petrograd, the third day of the seventh month of the fifth year of Taisho, corresponding to the 3rd of July/20th June, 1916.

I. MOTONO.
SAZONOW.

AGREEMENT BETWEEN MONGOLIA AND RUSSIA

Signed at Urga, October 21/ November 3, 1912.²

In accordance with the desire unanimously expressed by the Mongolians to maintain the national and historic constitution of their country, the Chinese troops and authorities were obliged to evacuate Mongolian territory, and Djebzoun Damba-Khutukhta was proclaimed Ruler of the Mongolian people. The old relations between Mongolia and China thus came to an end.

¹ Translation of the official text published in the *Japan Times*, July 9, 1916.

² British Parliamentary Paper, Cd. 6604.

At the present moment, taking into consideration the facts stated above, as well as the mutual friendship which has always existed between the Russian and Mongolian nations, and in view of the necessity of defining exactly the system regulating trade between Russia and Mongolia;

The Actual State Councillor Jean Korostovetz, duly authorized for the purpose by the Imperial Russian Government; and

The Protector of the Ten Thousand Doctrines Sain-noin Khan Naman-Souroun, President of the Council of Ministers of Mongolia;

The Plenipotentiary Tchinsouzkoutou Tzin-van Lama Tzerin-Tchimet, Minister of the Interior;

The plenipotentiary Daitzin-van Handa-dorji, of the rank of Khan-erdeni, Minister for Foreign Affairs;

The Plenipotentiary Daitzin-van Handa-dorki, of the rank of Khan-erdeni, Minister for Foreign Affairs;

The Plenipotentiary Erdeni Dalai Tzun-van Gombo-Souroun, Minister of War;

The Plenipotentiary Touchetou Tzun-van Tchakdorjab, Minister of Finance; and

The Plenipotentiary Erdeni Tzum-van Namsarai, Minister of Justice;

Duly authorized by the Ruler of the Mongolian nation, by the Mongolian Government and by the ruling Princes, have agreed as follows:

ARTICLE 1.

The Imperial Russian Government shall assist Mongolia to maintain the autonomous régime which she has established, as also the right to have her national army, and to admit neither the presence of Chinese troops on her territory nor the colonization of her land by the Chinese.

ARTICLE 2.

The Ruler of Mongolia and the Mongolian Government shall grant, as in the past, to Russian subjects and trade the enjoyment in their possessions of the rights and privileges enumerated in the protocol annexed hereto.³

It is well understood that there shall not be granted to other foreign subjects in Mongolia rights not enjoyed there by Russian subjects.

³ Printed herein, p. 241.

ARTICLE 3.

If the Mongolian Government finds it necessary to conclude a separate treaty with China or another foreign Power, the new treaty shall in no case either infringe the clauses of the present agreement and of the protocol annexed thereto, or modify them without the consent of the Imperial Russian Government.

ARTICLE 4.

The present amicable agreement shall come into force from the date of its signature.

In witness whereof the respective plenipotentiaries, having compared the two texts, Russian and Mongolian, of the present agreement, made in duplicate, and having found the two texts to correspond, have signed them, have affixed thereto their seals, and have exchanged texts.

Done at Urga on the 21st October, 1912, corresponding to the 24th day of the last autumn month of the 2nd year of the reign of the Unanimously Proclaimed, according to the Mongolian calendar.

PROTOCOL ANNEKED TO RUSSO-MONGOLIAN AGREEMENT OF OCTOBER 21/
NOVEMBER, 3, 1912.

Signed at Urga, October 21/ November 3, 1912.

By virtue of the enactment of the second article of the agreement, signed on this day between Actual State Councillor, Ivan Korostovets, Plenipotentiary of the Imperial Russian Government, and the President of the Council of Ministers of Mongolia, Sain-noin Khan Namnam-Souroun, the Protector of Ten Thousand Doctrines; the Plenipotentiary and Minister of the Interior, Tchinsouzouktou Tzin-van Lama Tzerin-Tchimet; the Plenipotentiary and Minister for Foreign Affairs, Daitzin-van Handa-dorji of the rank of Khan-erdeni; the Plenipotentiary and Minister of War, Erdenia Dalai Tzun-van Gombo-Souroun; the Plenipotentiary and Minister of Finance, Touchetou Tzum-van Tchakdorjab; and the Plenipotentiary and Minister of Justice, Erdeni Tzun-van Namsarai, on the authority of the Ruler of Mongolia, the Mongolian Government, and the ruling Princes; the above-named plenipotentiaries have come to an agreement respecting the following articles, in which are set forth the rights and privileges of Russian subjects in Mongolia,

some of which they already enjoy, and the rights and privileges of Mongolian subjects in Russia:

ARTICLE 1.

Russian subjects, as formerly, shall enjoy the right to reside and move freely from one place to another throughout Mongolia; to engage there in any kind of commercial, industrial, and other business; and to enter into agreements of various kinds, whether with individuals, or firms, or institutions, official or private, Russian, Mongolian, Chinese, or foreign.

ARTICLE 2.

Russian subjects, as formerly, shall enjoy the right at all times to import and export, without payment of import and export dues, every kind of product of the soil and industry of Russia, Mongolia and China, and other countries, and to trade freely in it without payment of any duties, taxes, or other dues.

The enactments of this (2nd) article shall not extend to combined Russo-Chinese undertakings, or to Russian subjects falsely declaring themselves to be owners of wares not their property.

ARTICLE 3.

Russian credit institutions shall have the right to open branches in Mongolia, and to transact all kinds of financial and other business, whether with individuals, institutions, or companies.

ARTICLE 4.

Russian subjects may conclude purchases and sales in cash or by an exchange of wares (barter), and they may conclude agreements on credit. Neither "khoshuns" nor the Mongolian Treasury shall be held responsible for the debts of private individuals.

ARTICLE 5.

The Mongolian authorities shall not preclude Mongolians or Chinese from completing any kind of commercial agreement with Russian subjects, from entering into their personal service, or into commercial and industrial undertakings formed by them. No rights of monopoly as regards commerce or industry shall be granted to any official or private

companies, institutions, or individuals in Mongolia. It is, of course, understood that companies and individuals who have already received such monopolies from the Mongolian Government previous to the conclusion of this agreement shall retain their rights and privileges until the expiry of the period fixed.

ARTICLE 6.

Russian subjects shall be everywhere granted the right, whether in towns or "khoshuns," to hold allotments on lease, or to acquire them as their own property for the purpose of organizing commercial industrial establishments, and also for the purpose of constructing houses, shops, and stores. In addition, Russian subjects shall have the right to lease vacant lands for cultivation. It is, of course, understood that these allotments shall be obtained and leased for the above-specified purposes, and not for speculative aims. These allotments shall be assigned by agreement with the Mongolian Government in accordance with existing laws of Mongolia, everywhere excepting in sacred places and pasture lands.

ARTICLE 7.

Russian subjects shall be empowered to enter into agreements with the Mongolian Government respecting the working of minerals and timber, fisheries, etc.

ARTICLE 8.

The Russian Government shall have the right, in agreement with the Government of Mongolia, to appoint consuls in those parts of Mongolia it shall deem necessary.

Similarly, the Mongolian Government shall be empowered to have government agents at those frontier parts of the empire where, by mutual agreement, it shall be found necessary.

ARTICLE 9.

At points where there are Russian consulates, as also in other localities of importance for Russian trade, there shall be allotted, by mutual agreement between Russian consuls and the Mongolian Government, special "factories" for various branches of industry and the residence of Russian subjects. These "factories" shall be under the exclusive control of the above-mentioned consuls, or the heads of the Russian commercial companies if there be no Russian consul.

ARTICLE 10.

Russian subjects, in agreement with the Mongolian Government, shall retain the right to institute, at their own cost, a postal service for the dispatch of letters and the transit of wares between various localities in Mongolia and also between specified localities and points on the Russian frontier. In the event of the construction of "stages" and other necessary buildings, the regulations set forth in Article 6 of this protocol must be duly observed.

ARTICLE 11.

Russian consuls in Mongolia, in case of need, shall avail themselves of Mongolian Government postal establishments and messengers for the dispatch of official correspondence, and for other official requirements, provided that the gratuitous requisition for this purpose shall not exceed one hundred horses and thirty camels per month. On every occasion, a courier's passport must be obtained from the Government of Mongolia. When traveling, Russian consuls, and Russian officials in general, shall avail themselves of the same establishments upon payment. The right to avail themselves of Mongolian Government "stages" shall be extended to private individuals, who are Russian subjects, upon payment for the use of such "stages" of amounts which shall be determined in agreement with the Mongolian Government.

ARTICLE 12.

Russian subjects shall be granted the right to sail their own merchant vessels on, and to trade with the inhabitants along the banks of, those rivers and their tributaries which, running first through Mongolia, subsequently enter Russian territory. The Russian Government shall afford the Government of Mongolia assistance in the improvement of navigation on these rivers, the establishment of the necessary beacons, etc. The Mongolian Government authorities shall assign on these rivers places for the berthing of vessels, for the construction of wharves and warehouses, for the preparation of fuel, etc., being guided on these occasions by the enactments of Article 6 of the present protocol.

ARTICLE 13.

Russian subjects shall have the right to avail themselves of all land and water routes for the carriage of wares and the droving of cattle,

and, upon agreement with the Mongolian authorities, they may construct, at their own cost, bridges, ferries, etc., with the right to exact a special due from persons crossing over.

ARTICLE 14.

Traveling cattle, the property of Russian subjects, may stop for the purpose of resting and feeding. In the event of prolonged halts being necessary, the local authorities shall assign proper pasturage areas along traveling cattle routes, and at cattle markets. Fees shall be exacted for the use of these pasturing areas for periods exceeding three months.

ARTICLE 15.

The established usage of the Russian frontier population harvesting (hay), as also hunting and fishing, across the Mongolian borders shall remain in force in the future without any alteration.

ARTICLE 16.

Agreements between Russian subjects and institutions on the one side and Mongolians and Chinese on the other may be concluded verbally or in writing, and the contracting parties may present the agreement concluded to the local government authorities for certification. Should the latter see any objection to certifying the contract, they must immediately notify the fact to a Russian consul, and the misunderstanding which has arisen shall be settled in agreement with him.

It is hereby laid down that contracts respecting real estate must be in written form, and presented for certification and confirmation to the proper Mongolian Government authorities and a Russian consul. Documents bestowing rights to exploit natural resources require the confirmation of the Government of Mongolia.

In the event of disputes arising over agreements concluded verbally or in writing, the parties may settle the matter amicably with the assistance of arbitrators selected by each party. Should no settlement be reached by this method, the matter shall be decided by a mixed legal commission.

There shall be both permanent and temporary mixed legal commissions. Permanent commissions shall be instituted at the places of residence of Russian consuls, and shall consist of the consul, or his represen-

tative, and a delegate of the Mongolian authorities of corresponding rank. Temporary commissions shall be instituted at places other than those already specified, as cases arise, and shall consist of representatives of a Russian consul and the prince of that "khoshun" to which the defendant belongs or in which he resides. Mixed commissions shall be empowered to call in as experts persons with a knowledge of the case from among Russian subjects, Mongolians, and Chinese. The decisions of the mixed legal commissions shall be put into execution without delay, in the case of Russian subjects through a Russian consul, and in the case of Mongolians and Chinese through the prince of the "khoshun" to which the defendant belongs or in which he is resident.

ARTICLE 17.

The present protocol shall come into force from the date of its signature.

In witness whereof, the respective plenipotentiaries, finding, upon comparison of the two parallel texts of the present protocol—Russian and Mongol—drawn up in duplicate, that the texts correspond, have signed each of them, affixed their seals, and exchanged texts.

Executed at Urga, the 21st October, 1912 (o. s.), and by the Mongolian calendar, on the twenty-fourth day of the last autumn moon, in the second year of the administration of the Unanimously Proclaimed.

In the original follow the signature of M. Korostovets, Minister Plenipotentiary; and in the Mongol language the signatures of the President of the Mongolian Council of Ministers, and the Plenipotentiaries, the Ministers of the Interior, Foreign Affairs, War, Finance, and of Justice.

DECLARATION AND EXCHANGE OF NOTES BY RUSSIA AND CHINA.¹

Signed at Peking, October 23/ November 5, 1913.

The Imperial Government of Russia having formulated the principles which it took as the basis of its relations with China as regards Outer Mongolia, and the Government of the Chinese Republic having stated its approval of the said principles, the two governments have agreed upon the following:

¹ Translated from the Chinese Year Book, 1914, pp. 633-635.

I.

Russia recognizes that Outer Mongolia is under the suzerainty of China.

II.

China recognizes the autonomy of Outer Mongolia.

III.

Recognizing the exclusive right of the Mongols of Outer Mongolia to provide for the internal administration of Autonomous Mongolia and to settle all questions of a commercial and industrial nature relating to this country, China binds itself not to intervene in these matters and consequently will not send troops into Outer Mongolia, nor will it keep any civil or military official there, and it will abstain from colonizing in this country. It is, however, understood that a Dignitary sent by the Chinese Government may reside at Urga, accompanied by the necessary subordinates and an escort. Moreover, the Chinese Government may, in case of need, keep in certain localities of Outer Mongolia, to be determined in the course of the conferences provided for in Article V of the present agreement, agents for the protection of the interests of its subjects. Russia, on its side, binds itself not to keep troops in Outer Mongolia, with the exception of consular guards, and not to intervene in any branch of the administration of this country and to abstain from colonizing.

IV.

China declares itself ready to accept the good offices of Russia for the establishment of its relations with Outer Mongolia, in conformity with the principles above set forth and with the stipulations of the Russo-Mongolian Commercial Protocol of October 21, 1912 (November 3, 1912).²

V.

Questions pertaining to the interests of Russia and of China in Outer Mongolia and resulting from the new state of affairs in this country will be the subject of subsequent conferences.

In faith whereof the undersigned, duly authorized to this effect, have signed the present Declaration and have affixed their seals thereto.

² Printed in this Supplement, p. 241.

Done at Peking, in duplicate, October 23/ November 5, nineteen hundred and thirteen, corresponding to the fifth day of the eleventh month of the second year of the Chinese Republic.

(Signed) SUN PAO-CHI.

L. S.

(Signed) B. KRUPENSKY.

L. S.

Note of the Russian Minister at Peking to the Chinese Minister for Foreign Affairs.

In signing the Declaration under date of this day relating to Outer Mongolia, the undersigned, Envoy Extraordinary and Minister Plenipotentiary of His Majesty the Emperor of all the Russias, duly authorized to this effect, has the honor to declare, in the name of his government, to His Excellency Mr. Sun Pao-Chi, Minister of Foreign Affairs of the Chinese Republic, the following:

1. Russia recognizes that the territory of Outer Mongolia is a part of the territory of China.

2. As regards questions of a political and territorial nature, the Chinese Government shall come to an agreement with the Russian Government through negotiations in which the authorities of Outer Mongolia shall take part.

3. The conferences provided for in Article V of the Declaration shall take place between the three interested parties, who shall designate for this purpose a place where their delegates shall meet.

4. Outer Mongolia shall comprise the regions which have been under the jurisdiction of the Chinese Amban of Urga, of the Tartar General of Ouliasoutai, and of the Chinese Amban of Kobdo. Inasmuch as there are no detailed maps of Mongolia and as the boundaries of the administrative divisions of this country are uncertain, it is agreed that the exact boundaries of Outer Mongolia, as well as the boundary between the district of Kobdo and the district of Altai, shall be the subject of the subsequent conferences provided for in Article V of the Declaration.

The undersigned takes advantage of this opportunity to repeat to His Excellency Mr. Sun Pao-Ki the assurances of his very high consideration.

(Signed) B. KRUPENSKY.

Note of the Chinese Minister for Foreign Affairs to the Russian Minister at Peking.

In signing the Declaration under date of this day relating to Outer Mongolia, the undersigned, Minister of Foreign Affairs of the Chinese Republic, duly authorized to this effect, has the honor to declare, in the name of his government, to his Excellency Mr. Krupensky, Envoy Extraordinary and Minister Plenipotentiary of His Majesty the Emperor of all the Russias, the following:

1. Russia recognizes that the territory of Outer Mongolia is a part of the territory of China.

2. As regards questions of a political and territorial nature, the Chinese Government shall come to an agreement with the Russian Government through negotiations in which the authorities of Outer Mongolia shall take part.

3. The conferences provided for in Article V of the Declaration shall take place between the three interested parties, who shall designate for this purpose a place where their delegates shall meet.

4. Outer Mongolia shall comprise the regions which have been under the jurisdiction of the Chinese Amban of Urga, of the Tartar General of Ouliasoutai, and of the Chinese Amban of Kobdo. Inasmuch as there are no detailed maps of Mongolia and as the boundaries of the administrative divisions of this country are uncertain, it is agreed that the exact boundaries of Outer Mongolia, as well as the boundary between the district of Kobdo and the district of Altai, shall be the subject of subsequent conferences provided for in Article V of the Declaration.

The undersigned takes advantage of this opportunity to repeat to His Excellency Mr. Krupensky the assurances of his very high consideration.

(Signed) SUN PAO-CHI.

THE RUSSO-MONGOLIAN RAILWAY AGREEMENT ¹

Signed at Kiachta, Sept. 30, 1914.

ARTICLE 1.

The Russian Government hereby recognizes the permanent right of the Mongolian Government to build railways within the boundaries of its own territory.

¹ Peking Gazette, Dec. 8, 1914.

ARTICLE 2.

The Russian and Mongolian Governments shall consult each other to decide the railway lines and procedure of their building, which should be carried out in such a way as to benefit both parties concerned.

ARTICLE 3.

In case of railway building, whether financed by the Russian or Mongolian Government or by private persons, the Russian Government shall render adequate help to the Mongolian Government.

ARTICLE 4.

When such railways as will connect with the railways on Russian frontiers are to be built, the Russian and Mongolian Governments shall consult each other on the terms concerning the privileges, localities and railway revenue regarding the same.

ARTICLE 5.

Whereas the Mongolian Government has the right to build railways within the boundaries of its own territory, if it can raise funds internally to build paying railways, the Russian Government shall not interfere with it. But should the Mongolian Government concede such rights to other countries, the Mongolian Government, for the sake of friendly relations with Russia, should discuss this matter with the Russian Government, before the former makes the actual concession, in order to ascertain whether the projected line or lines of railway would jeopardize the Russian interest from an economical or military standpoint.

ARTICLE 6.

This treaty shall be duplicated in both the Mongolian and Russian languages. One copy shall be deposited in the office of the Russian Consul-General in Mongolia and the other in the office of the Ministry of Foreign Affairs of the Mongolian Government.

AGREEMENT BETWEEN CHINA, RUSSIA AND MONGOLIA

Signed at Kiachta, June 7/ May 25, 1915.

The President of the Republic of China,
His Imperial Majesty, the Emperor of all the Russias, and
His Holiness the Bogdo (Great) Cheptsun (Venerable) Damba
(Sacred) Hut'ukht'u (Reincarnated) Khan (Ruler) of Outer Mongolia,
Animated by a sincere desire to settle by mutual agreement various
questions created by a new state of things in Outer Mongolia, have
named for that purpose their plenipotentiary delegates, that is to say:

The President of the Republic of China, General Pi Kuei-fang and
Monsieur Ch'ên Lu, Envoy Extraordinary and Minister Plenipotentiary
of China to Mexico;

His Imperial Majesty the Emperor of all the Russias, His Councillor
of State Alexandre Miller, Diplomatic Agent and Consul-General in
Mongolia; and

His Holiness the Bogdo Cheptsun Damba Hut'ukht'u Kahn of Outer
Mongolia, E'êrh-tê-ni Cho-nang Pei-tzu Sê-lêng-tan, Vice-Chief of
Justice, and T'uhsieh-t'u Ch'in Wang Ch'a-K'o-tu-êrh-cha-pu, Chief of
Finance.

Who having verified their respective full powers found in good and
due form, have agreed upon the following:

ARTICLE I.

Outer Mongolia recognizes the Sino-Russian Declaration and the
Notes exchanged between China and Russia of the 5th day of the 11th
month of the 2nd year of the Republic of China (23 October 1913) ¹

ARTICLE II.

Outer Mongolia recognizes China's suzerainty. China and Russia
recognize the autonomy of Outer Mongolia forming part of Chinese
territory.

ARTICLE III.

Autonomous Mongolia has no right to conclude international treaties
with foreign Powers respecting political and territorial questions.

As respects questions of a political and territorial nature in Outer

¹ Printed in this Supplement, p. 246.

Mongolia, the Chinese Government engages to conform to Article II of the Notes exchanged between China and Russia on the 5th day of the 11th month of the 2nd year of the Republic of China (23rd October, 1913).

ARTICLE IV.

The title "Bogdo Cheptsun Damba Kut'ukt'u Kahn of Outer Mongolia" is conferred by the President of the Republic of China. The calendar of the Republic as well as the Mongol calendar of cyclical signs are to be used in official documents.

ARTICLE V.

China and Russia, conformably to Article II and III of the Sino-Russian Declaration of the 5th day of the 11th month of the 2nd year of the Republic of China, 23rd October 1913, recognize the exclusive right of the Autonomous Government of Outer Mongolia to attend to all the affairs of its internal administration and to conclude with foreign Powers international treaties and agreements respecting all questions of a commercial and industrial nature concerning autonomous Mongolia.

ARTICLE VI.

Conformably to the same Article III of the Declaration, China and Russia engage not to interfere in the system of autonomous internal administration existing in Outer Mongolia.

ARTICLE VII.

The military escort of the Chinese Dignitary at Urga provided for by Article III of the above-mentioned Declaration is not to exceed two hundred men. The military escorts of his assistants at Uliassutai, at Kobdo and at Mongolian-Kiachta are not to exceed fifty men each. If, by agreement with the Autonomous Government of Outer Mongolia, assistants of the Chinese Dignitary are appointed in other localities of Outer Mongolia, their military escorts are not to exceed fifty men each.

ARTICLE IX.

On all ceremonial or official occasions the first place of honor is due to the Chinese Dignitary. He has the right, if necessary, to present himself in private audience with His Holiness Bogdo Cheptsun Damba

Kut'uhkt'u Kahn of Outer Mongolia. The Imperial representative of Russia enjoys the same right of private audience.

ARTICLE X.

The Chinese Dignitary at Urga and his assistants in the different localities of Outer Mongolia provided for by Article VII of this agreement are to exercise general control lest the acts of the Autonomous Government of Outer Mongolia and its subordinate authorities may impair the suzerain rights and the interests of China and her subjects in Autonomous Mongolia.

ARTICLE XI.

Conformably to Article IV of the Notes exchanged between China and Russia on the 5th day of the 11th month of the 2nd year of the Republic of China (23rd October, 1913), the territory of Autonomous Outer Mongolia comprises the regions which were under the jurisdiction of the Chinese Amban at Urga, of the Tartar-General at Uliassutai and of the Chinese Amban at Kobdo; and connects with the boundary of China by the limits of the banners of the four aimaks of Khalka and of the district of Kobdo, bounded by the district of Houlon-Bouire on the east, by Inner Mongolia on the south, by the Province of Singkiang on the South-West, and by the districts of Altai on the west.

The formal delimitation between China and Autonomous Mongolia is to be carried out by a special commission of delegates of China, Russia, and Autonomous Outer Mongolia, which shall set itself to the work of delimitation within a period of two years from the date of signature of the present agreement.

ARTICLE XII.

It is understood that customs duties are not to be established for goods of whatever origin they may be, imported by Chinese merchants into Autonomous Outer Mongolia. Nevertheless, Chinese merchants shall pay all the taxes on internal trade which have been established in Autonomous Outer Mongolia and which may be established therein in the future, payable by the Mongols of autonomous Outer Mongolia. Similarly the merchants of Autonomous Outer Mongolia, when importing any kind of goods of local production into Inner China, shall pay all the taxes on trade which have been established in Inner China and which may be established therein in the future, payable by Chinese merchants.

Goods of foreign origin imported from Autonomous Outer Mongolia into Inner China shall be subject to the customs duties stipulated in the regulations for land trade of the 7th year of the Reign of Kouang-Hsu (of 1881).

ARTICLE XIII.

Civil and criminal actions arising between Chinese subjects residing in Autonomous Outer Mongolia are to be examined and adjudicated by the Chinese Dignitary at Urga and by his assistants in the other localities of Autonomous Outer Mongolia.

ARTICLE XIV.

Civil and criminal actions arising between Mongols of Autonomous Outer Mongolia and Chinese subjects residing therein are to be examined and adjudicated conjointly by the Chinese Dignitary at Urga and his assistants in the other localities of Autonomous Outer Mongolia, or their delegates, and the Mongolian authorities. If the defendant or the accused is a Chinese subject and the claimant or the complainant is a Mongol of Autonomous Outer Mongolia, the joint examination and decision of the case are to be held at the Chinese Dignitary's place at Urga and at that of his assistants in the other localities of Autonomous Outer Mongolia; if the defendant or the accused is a Mongol of Autonomous Outer Mongolia and the claimant or the complainant is a Chinese subject, the case is to be examined and decided in the same manner in the Mongolian yamen. The guilty are to be punished according to their own laws. The interested parties are free to arrange their disputes amicably by means of arbiters chosen by themselves.

ARTICLE XV.

Civil and criminal actions arising between Mongols of Autonomous Outer Mongolia and Russian subjects residing therein are to be examined and decided conformably to the stipulations of Article XVI of the Russo-Mongolian Commercial Protocol of 21st October, 1912.¹

ARTICLE XVI

All civil and criminal actions arising between Chinese and Russian subjects in Autonomous Outer Mongolia are to be examined and de-

¹ Printed in this Supplement, p. 241.

cided in the following manner; in an action wherein the claimant or the complainant is a Russian subject and the defendant or accused is a Chinese subject, the Russian Consul personally or through his delegate participates in the judicial trial, enjoying the same rights as the Chinese Dignitary at Urga or his delegate or his assistants in the other localities of Autonomous Outer Mongolia. The Russian Consul or his delegate proceeds to the hearing of the claimant and the Russian witnesses in the court in session, and interrogates the defendant and the Chinese witnesses through the medium of the Chinese Dignitary at Urga or his delegate or of his assistants in the other localities of Autonomous Outer Mongolia; the Russian Consul or his delegate examines the evidence presented, demands security for "revindications" and has recourse to the opinion of experts, if he considers such expert opinion necessary for the elucidation of the rights of the parties, etc.; he takes part in deciding and in the drafting of the judgment, which he signs with the Chinese Dignitary at Urga or his delegate or his assistants in the other localities of Autonomous Outer Mongolia. The execution of the judgment constitutes a duty of the Chinese authorities.

The Chinese Dignitary at Urga and his assistants in the other localities of Autonomous Outer Mongolia may likewise personally or through their delegates be present at the hearing of an action in the consulates of Russia wherein the defendant or the accused is a Russian subject and the claimant or the complainant is a Chinese subject. The execution of the judgment constitutes a duty of the Russian authorities.

ARTICLE XVII.

Since a section of the Kiachta-Urga-Kalgan telegraph line lies in the territory of Autonomous Outer Mongolia, it is agreed that the said section of the said telegraph line constitutes the complete property of the Autonomous Government of Outer Mongolia.

The details respecting the establishment on the borders of that country and Inner Mongolia of a station to be administered by Chinese and Mongolian employees for the transmission of telegrams, as well as the questions of the tariff for telegrams transmitted and of the apportionment of the receipts, etc., are to be examined and settled by a special commission of technical delegates of China, Russia and Autonomous Outer Mongolia.

ARTICLE XVIII.

The Chinese postal institutions at Urga and Mongolian-Kiachta remain in force on the old basis.

ARTICLE XIX.

The Autonomous Government of Outer Mongolia will place at the disposal of the Chinese Dignitary of Urga and of his assistants at Uliasutai, Kobdo and Mongolian-Kiachta, as well as of their staff, the necessary houses, which are to constitute the complete property of the Government of the Republic of China. Similarly necessary grounds in the vicinity of the residence of the said staff are to be granted for their escorts.

ARTICLE XX.

The Chinese Dignitary at Urga and his assistants in the other localities of Autonomous Outer Mongolia and also their staffs are to enjoy the right to use the courier stations of the Autonomous Mongolian Government conformably to the stipulation of Article XI of the Russo-Mongolian Protocol of 21 October, 1912.

ARTICLE XXI.

The stipulations of the Sino-Russian Declaration and the Notes exchanged between China and Russia of the 5th day of the 11th month of the 2nd year of the Republic of China (23 October, 1913), as well as those of the Russo-Mongolian Commercial Protocol of the 21 October, 1912, remain in full force.

ARTICLE XXII.

The present agreement drawn up in triplicate in Chinese, Russian, Mongolian and French, comes into force from the day of its signature. Of the four texts which have been duly compared and found to agree the French text shall be authoritative in the interpretation of the present agreement.

Done at Kiachta the 7th day of the sixth month of the fourth year of the Republic of China, corresponding to the twenty-fifth of May (seventh of June), one thousand nine hundred fifteen.

DECLARATIONS MADE BY RUSSIA AND CHINA UPON SIGNING THE TRIPARTITE AGREEMENT BETWEEN CHINA, RUSSIA AND MONGOLIA OF
JUNE 7/ MAY 25, 1915.

KIACHTA, $\frac{\text{May 25,}}{\text{June 7,}}$ 1915.

The undersigned Imperial Delegate Plenipotentiary of Russia to the tripartite negotiations at Kiachta, duly authorized for this purpose, has the honor, on proceeding to sign the tripartite agreement of this day's date relating to Autonomous Outer Mongolia, to declare in the name of his government to their excellencies Messieurs Py Koue Fang and Tcheng Loh, Delegates Plenipotentiary of the Republic of China to the tripartite negotiations at Kiachta, as follows:

It is agreed that all the telegraph offices which are situated along that section of the Kalgan-Urga-Kiachta line which lies within Outer Mongolia and of which mention is made in Article XVII of the agreement of Kiachta, are to be handed over by the Chinese officials to the Mongolian officials within a period at most of six months after the signing of the agreement; and that the point of junction of the Chinese and Mongolian lines is to be fixed by the technical commission provided for in the aforesaid article.

The above is at the same time brought to the knowledge of the Delegates Plenipotentiary of the Autonomous Government of Outer Mongolia.

The undersigned seizes this occasion to renew to the Delegates Plenipotentiary of the Republic of China the assurances of his very high consideration.

(Signed) A. MILLER.

To MM. General Py Koue Fang and Tcheng Loh,
Chinese Delegates Plenipotentiary.

KIACHTA, $\frac{\text{May 25,}}{\text{June 7,}}$ 1915.

The undersigned, Delegate Plenipotentiary of Russia to the tripartite negotiations at Kiachta, has the honor to acknowledge to their excellencies Messieurs Pu Koue Fang and Tcheng Loh, Delegates Plenipotentiary of the Republic of China to the tripartite negotiations at Kiachta, the receipt of the following note of to-day's date:

"The undersigned Delegates Plenipotentiary of the Republic of China to the tripartite negotiations at Kiachta, duly authorized for this pur-

pose, have the honor, on proceeding to sign the tripartite agreement of this day's date relating to Autonomous Outer Mongolia, to declare in the name of their government to his excellency, Mr. Miller, Imperial Delegate Plenipotentiary of Russia to the tripartite negotiations at Kiachta as follows: From the day of signature of the present Sino-Russo-Mongolian agreement the Government of the Republic of China grants a full amnesty to all the Mongols who submitted to the Autonomous Government of Outer Mongolia; it leaves to all the Mongols of Outer Mongolia as of Inner Mongolia the freedom as before of residence and travel in the said regions. The Government of the Republic of China will not place any restraint upon Mongols going in pilgrimage to testify their veneration to His Holiness Bogdo Cheptsun Damba Hut'ukht'u Khan of Outer Mongolia."

The undersigned seizes this occasion to renew to the Delegates Plenipotentiary of the Republic of China the assurances of his very high consideration.

(Signed) A. MILLER.

To MM. General Py Koue Fang and Tcheng Loh,
Chinese Delegates Plenipotentiary.

CONVENTION BETWEEN NICARAGUA AND THE UNITED STATES REGARDING
THE NICARAGUAN CANAL ROUTE AND A NAVAL BASE ON THE GULF OF
FONSECA ¹

*Signed at Washington, August 5, 1914; ratifications exchanged,
June 22, 1916*

The Government of the United States of America and the Government of Nicaragua being animated by the desire to strengthen their ancient and cordial friendship by the most sincere coöperation for all purposes of their mutual advantage and interest and to provide for the possible future construction of an inter-oceanic ship canal by way of the San Juan River and the great Lake of Nicaragua, or by any route over Nicaraguan territory, whenever the construction of such canal shall be deemed by the Government of the United States conducive to the in-

¹ U. S. Treaty Series, No. 624.

terests of both countries, and the Government of Nicaragua wishing to facilitate in every way possible the successful maintenance and operation of the Panama Canal, the two governments have resolved to conclude a convention to these ends, and have accordingly appointed as their plenipotentiaries:

The President of the United States, the Honorable William Jennings Bryan, Secretary of State; and

The President of Nicaragua, Señor General Don Emiliano Chamorro, Envoy Extraordinary and Minister Plenipotentiary of Nicaragua to the United States;

Who, having exhibited to each other their respective full powers, found to be in good and due form, have agreed upon and concluded the following articles:

ARTICLE I

The Government of Nicaragua grants in perpetuity to the Government of the United States, forever free from all taxation or other public charge, the exclusive proprietary rights necessary and convenient for the construction, operation and maintenance of an interoceanic canal by way of the San Juan River and the great Lake of Nicaragua or by way of any route over Nicaraguan territory, the details of the terms upon which such canal shall be constructed, operated and maintained to be agreed to by the two governments whenever the Government of the United States shall notify the Government of Nicaragua of its desire or intention to construct such canal.

ARTICLE II

To enable the Government of the United States to protect the Panama Canal and the proprietary rights granted to the Government of the United States by the foregoing article, and also to enable the Government of the United States to take any measure necessary to the ends contemplated herein, the Government of Nicaragua hereby leases for a term of ninety-nine years to the Government of the United States the islands in the Caribbean Sea known as Great Corn Island and Little Corn Island; and the Government of Nicaragua further grants to the Government of the United States for a like period of ninety-nine years the right to establish, operate and maintain a naval base at such place on the territory of Nicaragua bordering upon the Gulf of Fonseca as the

Government of the United States may select. The Government of the United States shall have the option of renewing for a further term of ninety-nine years the above leases and grants upon the expiration of their respective terms, it being expressly agreed that the territory hereby leased and the naval base which may be maintained under the grant aforesaid shall be subject exclusively to the laws and sovereign authority of the United States during the terms of such lease and grant and of any renewal or renewals thereof.

ARTICLE III

In consideration of the foregoing stipulations and for the purposes contemplated by this convention and for the purpose of reducing the present indebtedness of Nicaragua, the Government of the United States shall, upon the date of the exchange of ratification of this convention, pay for the benefit of the Republic of Nicaragua the sum of three million dollars United States gold coin, of the present weight and fineness, to be deposited to the order of the Government of Nicaragua in such bank or banks or with such banking corporation as the Government of the United States may determine, to be applied by Nicaragua upon its indebtedness or other public purposes for the advancement of the welfare of Nicaragua in a manner to be determined by the two high contracting parties, all such disbursements to be made by orders drawn by the Minister of Finance of the Republic of Nicaragua and approved by the Secretary of State of the United States or by such person as he may designate.

ARTICLE IV

This convention shall be ratified by the high contracting parties in accordance with their respective laws, and the ratifications thereof shall be exchanged at Washington as soon as possible.

In witness whereof the respective plenipotentiaries have signed the present treaty and have affixed thereunto their seals.

Done at Washington, in duplicate, in the English and Spanish languages, on the 5th day of August, in the year nineteen hundred and fourteen.

WILLIAM JENNINGS BRYAN. [SEAL.]
EMILIANO CHAMORRO. [SEAL.]

PROTOCOL BETWEEN PANAMA AND THE UNITED STATES FOR THE DETERMINATION OF AMOUNT OF DAMAGES CAUSED BY THE RIOT AT PANAMA CITY JULY 4, 1912¹

Signed at Panama, November 27, 1915

The Government of the United States of America and the Government of the Republic of Panama, through their respective Plenipotentiaries, His Excellency, William Jennings Price, Envoy Extraordinary and Minister Plenipotentiary to Panama, on the part of the United States, and His Excellency, Ernesto T. Lefevre, Secretary of Foreign Affairs, on the part of the Republic of Panama, being duly authorized thereto, have agreed upon and concluded the following protocol:

WHEREAS, the Government of the United States claims indemnities for the death and injury of American citizens in a riot which occurred in Cocoa Grove, Panama City, July 4, 1912, and

WHEREAS, the Government of Panama has agreed, in principle, to the payment of such indemnities irrespective of the circumstances affecting the riot; and

WHEREAS, the two governments have been unable to agree upon the amounts of such indemnities, and have concluded to submit to arbitration the determination of the amounts to be paid by the Republic of Panama, it is, therefore, agreed as follows:

ARTICLE I

The high contracting parties agree to submit to His Excellency W. L. F. C. van Rappard, Envoy Extraordinary and Minister Plenipotentiary accredited by the Government of the Netherlands to the Governments of the United States and Panama, the determination of the amount of damages to be paid for each one of the American citizens killed and for each one injured as a result of the riot, and agree that he shall award the amounts so determined against the Government of Panama.

ARTICLE II

His Excellency W. L. F. C. van Rappard shall determine the amounts of such damages upon such papers as may be presented to him by the

¹ U. S. Treaty Series, No. 620.

Secretary of State of the United States and the Envoy Extraordinary and Minister Plenipotentiary of the Republic of Panama at Washington, respectively, within five months from the date of the signing of this agreement, but it is expressly understood and agreed that such papers shall relate only to the amount of damages to be paid.

The case shall then be closed unless His Excellency shall call for further documents, evidence, correspondence, or arguments from either government, in which event, such further documents, evidence, correspondence or arguments shall be furnished within sixty days from the date of the call. If such documents, evidence, correspondence or arguments are not furnished within the time specified a decision in the case shall be given as if they did not exist.

The entire case of each government shall be presented in writing.

ARTICLE III

A reasonable honorarium to His Excellency W. L. F. C. van Rappard shall be paid by the Government of Panama.

ARTICLE IV

The decision of His Excellency W. L. F. C. van Rappard shall be accepted as final and shall be binding upon the two governments.

In Witness Whereof, the undersigned have hereunto signed their names and affixed their seals.

Done at Panama the 27th day of November 1915.

WM. JENNINGS PRICE [SEAL.]

E. T. LEFEVRE. [SEAL.]

TREATY BETWEEN BOLIVIA AND THE UNITED STATES FOR THE ADVANCE-
MENT OF PEACE ¹

*Signed at Washington, January 22, 1914; ratifications exchanged,
January 8, 1915*

The United States of America and the Republic of Bolivia, being desirous to strengthen the bonds of amity that bind them together and also to advance the cause of general peace, have resolved to enter into a treaty for that purpose, and to that end have appointed as their plenipotentiaries:

The President of the United States, the Honorable William Jennings Bryan, Secretary of State; and

The President of Bolivia, Señor Don Ignacio Calderon, Envoy Extraordinary and Minister Plenipotentiary of Bolivia to the United States;

Who, after having communicated to each other their respective full powers, found to be in proper form, have agreed upon and concluded the following articles:

ARTICLE I

The high contracting parties agree that all disputes between them, of every nature whatsoever, to the settlement of which previous arbitration treaties or agreements do not apply in their terms or are not applied in fact, shall, when diplomatic methods of adjustment have failed, be referred for investigation and report to a permanent international commission, to be constituted in the manner prescribed in the next succeeding article; and they agree not to declare war or begin hostilities during such investigation and before the report is submitted.

ARTICLE II

The international commission shall be composed of five members, to be appointed as follows: one member shall be chosen from each country, by the government thereof; one member shall be chosen by each government from some third country; the fifth member shall be chosen by common agreement between the two governments, it being understood that he shall not be a citizen of either country. Each of the high con-

¹ U. S. Treaty Series, No. 606.

tracting parties shall have the right to remove, at any time before investigation begins, any commissioner selected by it and to name his successor, and under the same conditions shall also have the right to withdraw its approval of the fifth commissioner selected jointly; in which case a new commissioner shall be selected jointly as in the original selection. The commissioners shall, when actually employed in the investigation of a dispute, receive such compensation as shall be agreed upon by the high contracting parties. The expenses of the commission shall be paid by the two Governments in equal proportion.

The international commission shall be appointed as soon as possible after the exchange of the ratifications of this treaty; and vacancies shall be filled according to the manner of the original appointment.

ARTICLE III

In case the high contracting parties shall have failed to adjust a dispute by diplomatic methods, they shall at once refer it to the international commission for investigation and report. The international commission may, however, by unanimous agreement spontaneously offer its services to that effect, and in such case it shall notify both governments and request their coöperation in the investigation.

The high contracting parties agree to furnish the permanent international commission with all the means and facilities required for its investigation and report.

The report of the international commission shall be completed within one year after the date on which it shall declare its investigation to have begun, unless the high contracting parties shall limit or extend the time by mutual agreement. The report shall be prepared in triplicate; one copy shall be presented to each government, and the third retained by the commission for its files.

The high contracting parties reserve the right to act independently on the subject matter of the dispute after the report of the commission shall have been submitted.

ARTICLE IV

The present treaty shall be ratified by the President of the United States of America, by and with the advice and consent of the Senate thereof; and by the President of Bolivia, with the approval of the Congress thereof; and the ratifications shall be exchanged as soon as possible. It shall take effect immediately after the exchange of ratifications, and

shall continue in force for a period of five years; and it shall thereafter remain in force until twelve months after one of the high contracting parties have given notice to the other of an intention to terminate it.

In witness whereof the respective plenipotentiaries have signed the present treaty and have affixed thereunto their seals.

Done in Washington on the 22d day of January, in the year of our Lord nineteen hundred and fourteen.

WILLIAM JENNINGS BRYAN. [SEAL.]

IGNACIO CALDERON. [SEAL.]

TREATY BETWEEN CHILE AND THE UNITED STATES FOR THE ADVANCEMENT OF PEACE ¹

*Signed at Washington, July 24, 1914; ratifications exchanged,
January 19, 1916*

The President of the United States of America and the President of the Republic of Chile being desirous to secure in the most effective way the amicable settlement of any future difficulties between both countries and the subsequent maintenance of peace and good amity between them, have resolved to enter into a special treaty for that purpose, and to that end have appointed their plenipotentiaries as follows:

The President of the United States of America, His Excellency William Jennings Bryan, Secretary of State of the United States; and

The President of the Republic of Chile, His Excellency Eduardo Suárez Mujica, Envoy Extraordinary and Minister Plenipotentiary of Chile to the United States of America;

Who, after having communicated to each other their respective full powers, found to be in proper and due form, have agreed upon and concluded the following articles:

ARTICLE I

The high contracting parties agree that all disputes that may arise in the future between them, shall, when diplomatic methods of adjustment have failed, be submitted for investigation and report to an international commission to be constituted in the manner prescribed in the next succeeding article; and they agree not to declare war or begin hostilities during such investigation, nor before all resources stipulated in this treaty have proved unsuccessful.

¹ U. S. Treaty Series, No. 621.

ARTICLE II

The international commission shall be composed of five members, to be appointed as follows:—each government shall designate two members, only one of whom shall be of its own nationality. The fifth member shall be chosen by common agreement between the two governments, it being understood that he shall not belong to any of the nationalities already represented on the commission. The fifth member shall perform the duties of president.

Each of the high contracting parties shall have the right to remove, at any time before investigation begins, any commissioner selected by it and, conjointly, the nomination of the successor, or successors, must be enacted. Likewise, either government shall also have the right to withdraw its approval of the fifth member; in which case the new fifth member will be appointed within thirty days following the notification of the withdrawal, by common agreement between the two governments, and such agreement lacking, the appointment will be made by the President of the Swiss Confederation.

The vacancies that may occur through other causes than those already named, will be filled as mentioned in this article.

The international commission shall be constituted within the four months following the exchange of the ratifications of this treaty, and shall notify both governments of the date of its organization. The commission will establish its own regulations. The resolutions of the commission, as well as its final report, will be adopted by the majority of its members.

The expenses of the commission shall be paid by the two contracting governments in equal proportion.

The commission shall determine the country wherein it will sit, taking into consideration the greater facilities for the investigation.

ARTICLE III

In case that, as established in Article I, the high contracting parties shall have failed to adjust the difficulty by diplomatic methods, said difficulty will be immediately submitted to the international commission for its investigation and report. The convocation of said commission may be made by either contracting government.

The high contracting parties agree to furnish the permanent interna-

tional commission with all the means and facilities required for its investigation and report.

The report of the international commission shall be completed within one year after the date on which it shall declare its investigation to have begun, unless the high contracting parties shall extend the time by mutual agreement. The report shall be prepared in triplicate: one copy shall be presented to each government and the third retained by the commission for its files.

ARTICLE IV

Once the report is in possession of both governments, six months' time will be available for renewed negotiation in order to bring about a settlement of the difficulty in view of the findings of said report; and if even during this new term both governments should be unable to reach a friendly arrangement, the dispute will then be submitted to the Permanent Court of Arbitration established at The Hague.

Notwithstanding, any question that may affect the independence, the honor or the vital interests of either or both of the countries, or the provisions of their respective constitutions, or the interests of a third nation, will not be submitted to such or any other arbitration.

A special and previously agreed convention will detail, if arbitration is resorted to, the matter of the controversy, the extent of the arbiters' powers, and the length of time to which the court of arbitration must subject its organization and procedure, including the presentation of memorials, proofs, and pleas.

ARTICLE V

The present treaty will be ratified by both governments after obtaining its approval by the Constitutional powers of both countries, and the ratifications shall be exchanged in Washington as soon as possible.

The special convention prescribed by the final paragraph of Article IV remains also subject to the constitutional requisites of both countries.

The present treaty shall take effect immediately after the exchange of the ratifications; and shall continue in force for a period of five years, and it shall thereafter remain in force, during successive periods of five years, until one of the high contracting parties have given notice to the other of an intention to terminate it.

In witness thereof the respective plenipotentiaries have signed the present treaty, and have affixed thereunto their seals.

Done in Washington, on the 24th day of July, in the year nineteen hundred and fourteen.

WILLIAM JENNINGS BRYAN. [SEAL.]

ED.º SUÁREZ MUJICA. [SEAL.]

TREATY BETWEEN CHINA AND THE UNITED STATES FOR THE ADVANCEMENT OF PEACE¹

Signed at Washington, September 15, 1914; ratifications exchanged, October 22, 1915.

The President of the United States of America and the President of the Republic of China, desiring to strengthen the friendly relations which unite their two countries and to serve the cause of general peace, have decided to conclude a treaty for these purposes and have consequently appointed the plenipotentiaries designated hereinafter, to wit:

The President of the United States of America, the Honorable William Jennings Bryan, Secretary of State of the United States; and

The President of the Republic of China, Kai Fu Shah, Envoy Extraordinary and Minister Plenipotentiary of the Republic of China to the United States;

Who, after exhibiting to each other their full powers, found to be in due and proper form, have agreed upon the following articles:

ARTICLE I.

Any disputes arising between the Government of the United States of America and the Government of the Republic of China, of whatever nature they may be, shall, when ordinary diplomatic proceedings have failed and the high contracting parties do not have recourse to arbitration, be submitted for investigation and report to a permanent international commission constituted in the manner prescribed in the following article.

The high contracting parties agree not to resort, with respect to each other, to any act of force during the investigation to be made by the commission and before its report is handed in.

ARTICLE II.

The international commission shall be composed of five members appointed as follows: each government shall designate two members,

¹ U. S. Treaty Series, No. 619.

only one of whom shall be of its own nationality; the fifth member shall be designated by common consent and shall not belong to any of the nationalities already represented on the commission; he shall perform the duties of president.

In case the two governments should be unable to agree on the choice of the fifth commissioner, the other four shall be called upon to designate him, and failing an understanding between them, the provisions of Article 45 of the Hague Convention of 1907 shall be applied.

The commission shall be organized within six months from the exchange of ratifications of the present convention.²

The members shall be appointed for one year and their appointment may be renewed. They shall remain in office until superseded or reappointed, or until the work on which they are engaged at the time their office expires is completed.

Any vacancies which may arise (from death, resignation, or cases of physical or moral incapacity) shall be filled within the shortest possible period in the manner followed for the original appointment.

The high contracting parties shall, before designating the commissioners, reach an understanding in regard to their compensation. They shall bear by halves the expenses incident to the meeting of the Commission.

ARTICLE III.

In case a dispute should arise between the high contracting parties which is not settled by the ordinary methods, each party shall have a right to ask that the investigation thereof be intrusted to the international commission charged with making a report. Notice shall be given to the President of the international commission, who shall at once communicate with his colleagues.

In the same case the president may, after consulting his colleagues and upon receiving the consent of a majority of the members of the commission, offer the services of the latter to each of the contracting parties. Acceptance of that offer declared by one of the two governments shall be sufficient to give jurisdiction of the case to the commission in accordance with the foregoing paragraph.

The place of meeting shall be determined by the commission itself.

² The time within which the organization of the commission may be completed was extended by an exchange of notes of May 11-19, 1916, from April 22, 1916, to August 1, 1916. (Treaty series, No. 619-A.)

ARTICLE IV.

The two high contracting parties shall have a right, each on its own part, to state to the president of the commission what is the subject matter of the controversy. No difference in these statements, which shall be furnished by way of suggestion, shall arrest the action of the commission.

In case the cause of the dispute should consist of certain acts already committed or about to be committed, the commission shall as soon as possible indicate what measures to preserve the rights of each party ought in its opinion to be taken provisionally and pending the delivery of its report.

ARTICLE V.

As regards the procedure which it is to follow, the commission shall as far as possible be guided by the provisions contained in Articles 9 to 36 of Convention 1 of The Hague of 1907.

The high contracting parties agree to afford the commission all means and all necessary facilities for its investigation and report.

The work of the commission shall be completed within one year from the date on which it has taken jurisdiction of the case, unless the high contracting parties should agree to set a different period.

The conclusion of the commission and the terms of its report shall be adopted by a majority. The report, signed only by the president acting by virtue of his office, shall be transmitted by him to each of the contracting parties.

The high contracting parties reserve full liberty as to the action to be taken on the report of the commission.

ARTICLE VI.

The present treaty shall be ratified by the President of the United States of America, with the advice and consent of the Senate of the United States, and by the President of the Republic of China.

It shall go into force immediately after the exchange of ratifications and shall last five years.

Unless denounced six months at least before the expiration of the said period of five years, it shall remain in force until the expiration of a period of twelve months after either party shall have notified the other of its intention to terminate it.

In witness whereof the respective plenipotentiaries have signed the present treaty and have affixed thereunto their seals.

Done at Washington this 15th day of September, in the year nineteen hundred and fourteen, corresponding to the 15th day of the ninth month in the third year of the Republic of China.

[Seal.] WILLIAM JENNINGS BRYAN.

[Signature and seal of Chinese Plenipotentiary.] [KAI FU SHAH].

[Chinese text not printed.]

TREATY BETWEEN COSTA RICA AND THE UNITED STATES FOR THE
ADVANCEMENT OF PEACE ¹

*Signed at Washington, February 13, 1914; ratifications exchanged,
November 12, 1914.*

The United States of America and the Republic of Costa Rica, being desirous to strengthen the bonds of amity that bind them together and also to advance the cause of general peace, have resolved to enter into a treaty for that purpose, and to that end have appointed as their plenipotentiaries:

The President of the United States, the Honorable William Jennings Bryan, Secretary of State; and

The President of Costa Rica, Señor Don Joaquin Bernardo Calvo, Envoy Extraordinary and Minister Plenipotentiary of Costa Rica to the United States;

Who, after having communicated to each other their respective full powers, found to be in proper form, have agreed upon and concluded the following articles:

ARTICLE I

The high contracting parties agree that all disputes between them, of every nature whatsoever, to the settlement of which previous arbitration treaties or agreements do not apply in their terms or are not applied in fact, shall, when diplomatic methods of adjustment have failed, be referred for investigation and report to a permanent international commission, to be constituted in the manner prescribed in the next succeeding article; and they agree not to declare war or begin hostilities during such investigation and before the report is submitted.

¹ U. S. Treaty Series, No. 603.

ARTICLE II

The international commission shall be composed of five members, to be appointed as follows: one member shall be chosen from each country, by the government thereof; one member shall be chosen by each government from some third country; the fifth member shall be chosen by common agreement between the two governments, it being understood that he shall not be a citizen of either country. Each of the high contracting parties shall have the right to remove, at any time before investigation begins, any commissioner selected by it and to name his successor, and under the same conditions shall also have the right to withdraw its approval of the fifth commissioner selected jointly; in which case a new commissioner shall be selected jointly as in the original selection. The commissioners shall, when actually employed in the investigation of a dispute, receive such compensation as shall be agreed upon by the high contracting parties. The expenses of the commission shall be paid by the two governments in equal proportion.

The international commission shall be appointed as soon as possible after the exchange of the ratifications of this treaty; and vacancies shall be filled according to the manner of the original appointment.

ARTICLE III

In case the high contracting parties shall have failed to adjust a dispute by diplomatic methods, they shall at once refer it to the International commission for investigation and report. The international commission may, however, spontaneously offer its services to that effect, and in such case it shall notify both governments and request their coöperation in the investigation.

The high contracting parties agree to furnish the permanent international commission with all the means and facilities required for its investigation and report.

The report of the international commission shall be completed within one year after the date on which it shall declare its investigation to have begun, unless the high contracting parties shall limit or extend the time by mutual agreement. The report shall be prepared in triplicate; one copy shall be presented to each government, and the third retained by the commission for its files.

The high contracting parties reserve the right to act independently

on the subject matter of the dispute after the report of the commission shall have been submitted.

ARTICLE IV

The present treaty shall be ratified by the President of the United States of America, by and with the advice and consent of the Senate thereof; and by the President of Costa Rica, with the approval of the Congress thereof; and the ratifications shall be exchanged as soon as possible. It shall take effect immediately after the exchange of ratifications, and shall continue in force for a period of five years; and it shall thereafter remain in force until twelve months after one of the high contracting parties have given notice to the other of an intention to terminate it.

In witness whereof, the respective plenipotentiaries have signed the present treaty and have affixed thereunto their seals.

Done in Washington on the 13th day of February, in the year of our Lord nineteen hundred and fourteen.

[Seal.] WILLIAM JENNINGS BRYAN.

[Seal.] J. B. CALVO.

TREATY BETWEEN DENMARK AND THE UNITED STATES FOR THE ADVANCEMENT OF PEACE ¹

*Signed at Washington, April 17, 1914; ratifications exchanged,
January 19, 1915*

The United States of America and His Majesty the King of Denmark being desirous to strengthen the bonds of amity that bind them together and also to advance the cause of general peace, have resolved to enter into a treaty for that purpose and to that end have appointed as their plenipotentiaries:

The President of the United States; The Honorable William Jennings Bryan, Secretary of State; and

His Majesty the King of Denmark; Mr. Constantin Brun, His Chamberlain and Envoy Extraordinary and Minister Plenipotentiary to the United States;

Who, after having communicated to each other their respective full

¹ U. S. Treaty Series, No. 608.

powers, found to be in proper form, have agreed upon the following articles:

ARTICLE I

The high contracting parties agree that all disputes between them, of every nature whatsoever, which diplomacy shall fail to adjust, shall be submitted for investigation and report to an international commission, to be constituted in the manner prescribed in the next succeeding article; and they agree not to declare war or begin hostilities during such investigation and report.

ARTICLE II

The international commission shall be composed of five members, to be appointed as follows: one member shall be chosen from each country, by the government thereof; one member shall be chosen by each government from some third country; the fifth member shall be chosen by common agreement between the two governments. It is understood that the fifth member of the commission shall not be a citizen of either country. The expenses of the commission shall be paid by the two Governments in equal proportion.

The international commission shall be appointed within four months after the exchange of the ratifications of this treaty; and vacancies shall be filled according to the manner of the original appointment.

Unless otherwise agreed between the parties the procedure of the international commission shall be regulated by the prescriptions contained in the convention signed at The Hague on October 18, 1907, for the peaceful settlement of international disputes, Chapter III.

ARTICLE III

In case the high contracting parties shall have failed to adjust a dispute by diplomatic methods, they shall at once refer it to the international commission for investigation and report. The international commission may, however, act upon its own initiative, and in such case it shall notify both governments and request their coöperation in the investigation.

The high contracting parties agree to furnish the permanent international commission with all the means and facilities required for its investigation and report.

The report of the international commission shall be completed within one year after the date on which it shall declare its investigation to have

begun, unless the high contracting parties shall extend the time by mutual agreement. The report shall be prepared in triplicate; one copy shall be presented to each government, and the third retained by the commission for its files.

ARTICLE IV

The high contracting parties agree that, upon the receipt of the report of the international commission as provided in Article III, they will immediately endeavor to adjust the dispute directly between them upon the basis of the commission's findings. The high contracting parties, however, reserve the right to act independently on the subject matter of the dispute after the report of the commission shall have been submitted.

ARTICLE V

The present treaty shall be ratified by the President of the United States of America, by and with the advice and consent of the Senate thereof, and by His Majesty the King of Denmark.

The ratifications shall be exchanged at Washington as soon as possible. It shall take effect immediately after the exchange of ratifications, and shall continue in force for a period of five years; and it shall thereafter remain in force until twelve months after one of the high contracting parties shall have given notice to the other of an intention to terminate it.

In witness whereof the respective plenipotentiaries have signed the present treaty and have affixed thereunto their seals.

Done in duplicate in the English and Danish languages at Washington this 17th day of April, in the year 1914.

[Seal]. WILLIAM JENNINGS BRYAN.

[Seal]. C. BRUN.

TREATY BETWEEN ECUADOR AND THE UNITED STATES FOR THE ADVANCEMENT OF PEACE¹

*Signed at Washington, October 13, 1914; ratifications exchanged
January 22, 1916.*

The Governments of the United States of America and of the Republic of Ecuador, being desirous of once more contributing to the consolidation of their traditional policy of peace and amity and also

¹ U. S. Treaty Series, No. 622.

to advance the diffusion of the spirit of universal peace, have resolved to enter into a special treaty and to that end have appointed as their plenipotentiaries

The President of the United States of America; The Honorable William Jennings Bryan, Secretary of State; and

The President of the Republic of Ecuador: Señor Dr. Don Gonzalo S. Córdova, Envoy Extraordinary and Minister Plenipotentiary of the Republic of Ecuador to the United States of America.

Who, after having communicated to each other their respective full powers, found to be in proper form, have agreed upon the following articles:

ARTICLE I

The high contracting parties agree that all disputes between them, of every nature whatsoever to the settlement of which previous arbitration treaties or agreements do not apply in their terms or are not applied in fact, and which it has not been possible to adjust through diplomatic methods, be referred for investigation and report to an international commission to be constituted in the manner prescribed in the following article. And they further agree not to declare war or commit any act of hostility against each other during such investigation and before the report is submitted.

ARTICLE II

The international commission mentioned in the preceding article shall be composed of five members, to be appointed as follows: each government shall appoint two members, one of whom shall be a citizen of the country whose government appoints him, and the other a citizen of some third country; the fifth member shall be chosen by common agreement between the two governments, it being understood that he shall not be a citizen of either of the two contracting countries. In case of disagreement regarding the appointment of the fifth member, the two governments shall request the President of the Swiss Confederation to choose such member. Said fifth member shall be of right the president of the international commission.

Each government shall have the right to revoke the appointment of either or both of the members chosen by it, at any time before the investigation is begun, but must appoint his or their successors at the time his or their appointments are revoked. If the fifth member be chosen by common agreement between the high contracting parties,

they may also at any time before the investigation is begun, withdraw their approval, but shall in such case come to an agreement within the next thirty days as to the appointment of a successor or request the President of the Swiss Confederation to make such appointment. Vacancies due to other causes than those enumerated in this article shall be filled in the manner established for the original appointment, and the new appointments shall not be delayed more than fifteen days from the date on which notice of the vacancy was received. The international commission shall organize within six months after the exchange of the ratifications of this treaty, and shall report its organization to both governments on the same date. It shall prescribe the rules of practice to be observed in the discharge of its mission, and shall also designate the place where the investigations are to be conducted. The expenses of the commission and the compensation of its members shall be paid by the two contracting governments in equal proportion.

ARTICLE III

In case the high contracting parties shall have failed to adjust their disputes by diplomatic methods, they shall at once be referred to the international commission for investigation and report, and either of the two interested governments may make the respective reference. The high contracting parties agree to furnish the international commission with all the facilities which it requires for the proper discharge of its trust, and it shall complete its investigation and submit its report within a period of one year from the date on which it shall declare its investigation to have begun. If for reasons of *force majeure* it shall not have found it possible to complete its investigation or submit its report within the said period, it may be extended for six months more, if the high contracting parties agree in this respect. Upon the submission of its report by the International Commission, or if for any reason whatsoever no report is submitted within the term fixed in this article, the high contracting parties reserve the right to act in the subject matter of the investigation and report as their respective interests may demand.

ARTICLE IV

The present treaty shall be ratified by the respective governments in accordance with the provisions of their respective constitutions, and the ratifications shall be exchanged as soon as possible.

This treaty shall continue in force for five years from the date of the exchange of ratifications and if notice of an intention to terminate it is not given by one of the contracting parties to the other one year before the termination of this period, it shall be considered as renewed for another year, and so on successively. A strict and faithful observance of the preceding article is entrusted to the honor of the signatory nations.

In witness whereof the respective plenipotentiaries have signed the present treaty and have affixed thereunto their seals.

Done in Washington on the 13th day of October, in the year of our Lord nineteen hundred and fourteen.

[SEAL.] WILLIAM JENNINGS BRYAN.

[SEAL.] G. S. CORDOVA.

TREATY BETWEEN FRANCE AND THE UNITED STATES FOR THE
ADVANCEMENT OF PEACE¹

*Signed at Washington, September 15, 1914; ratifications exchanged
January 22, 1915.*

The President of the United States of America and the President of the French Republic, desiring to strengthen the friendly relations which unite their two countries and to serve the cause of general peace, have decided to conclude and have consequently appointed the plenipotentiaries designated hereinafter, to-wit:

The President of the United States of America, the Honorable William Jennings Bryan, Secretary of State of the United States; and

The President of the French Republic, His Excellency J. J. Jusserand, Ambassador of the French Republic to the United States;

Who, after exhibiting to each other their full powers, found to be in due and proper form, have agreed upon the following articles:

ARTICLE 1

Any disputes arising between the Government of the United States of America and the Government of the French Republic, of whatever nature they may be, shall, when ordinary diplomatic proceedings have failed and the high contracting parties do not have recourse to arbitration, be submitted for investigation and report to a permanent inter-

¹ U. S. Treaty Series, No. 609.

national commission constituted in the manner prescribed in the following article.

The high contracting parties agree not to resort, with respect to each other, to any act of force during the investigation to be made by the commission and before its report is handed in.

ARTICLE 2

The international commission shall be composed of five members appointed as follows: each government shall designate two members, only one of whom shall be of its own nationality; the fifth member shall be designated by common consent and shall not belong to any of the nationalities already represented on the commission; he shall perform the duties of president.

In case the two governments should be unable to agree on the choice of the fifth commissioner, the other four shall be called upon to designate him, and failing an understanding between them, the provisions of Article 45 of The Hague Convention of 1907 shall be applied.

The commission shall be organized within six months from the exchange of ratifications of the present convention.²

The members shall be appointed for one year and their appointment may be renewed. They shall remain in office until superseded or reappointed, or until the work on which they are engaged at the time their office expires is completed.

Any vacancies which may arise (from death, resignation, or cases of physical or moral incapacity) shall be filled within the shortest possible period in the manner followed for the original appointment.

The high contracting parties shall, before designating the commissioners, reach an understanding in regard to their compensation. They shall bear by halves the expenses incident to the meeting of the commission.

ARTICLE 3

In case a dispute should arise between the high contracting parties which is not settled by the ordinary methods, each party shall have a right to ask that the investigation thereof be intrusted to the interna-

² The time within which the organization of the commission may be completed was extended by an exchange of notes of November 10, 1915, from July 22, 1915, to January 1, 1916. (Treaty Series, No. 609.)

tional commission charged with making a report. Notice shall be given to the president of the international commission, who shall at once communicate with his colleagues.

In the same case the president may, after consulting his colleagues and upon receiving the consent of a majority of the members of the commission, offer the services of the latter to each of the contracting parties. Acceptance of that offer declared by one of the two governments shall be sufficient to give jurisdiction of the case to the commission in accordance with the foregoing paragraph.

The place of meeting shall be determined by the commission itself.

ARTICLE 4

The two high contracting parties shall have a right, each on its own part, to state to the president of the commission what is the subject-matter of the controversy. No difference in these statements, which shall be furnished by way of suggestion, shall arrest the action of the commission.

In case the cause of the dispute should consist of certain acts already committed or about to be committed, the commission shall as soon as possible indicate what measures to preserve the rights of each party ought in its opinion to be taken provisionally and pending the delivery of its report.

ARTICLE 5

As regards the procedure which it is to follow, the commission shall as far as possible be guided by the provisions contained in Articles 9 to 36 of Convention 1 of The Hague of 1907.

The high contracting parties agree to afford the commission all means and all necessary facilities for its investigation and report.

The work of the commission shall be completed within one year from the date on which it has taken jurisdiction of the case, unless the high contracting parties should agree to set a different period.

The conclusion of the commission and the terms of its report shall be adopted by a majority. The report, signed only by the president acting by virtue of his office, shall be transmitted by him to each of the contracting parties.

The high contracting parties reserve full liberty as to the action to be taken on the report of the commission.

ARTICLE 6

The present treaty shall be ratified by the President of the United States of America, with the advice and consent of the Senate of the United States, and by the President of the French Republic, in accordance with the constitutional laws of France.

It shall go into force immediately after the exchange of ratifications and shall last five years.

Unless denounced six months at least before the expiration of the said period of five years, it shall remain in force until the expiration of a period of twelve months after either party shall have notified the other of its intention to terminate it.

In witness whereof the respective plenipotentiaries have signed the present treaty and have affixed thereunto their seals.

Done at Washington this 15th day of September, in the year nineteen hundred and fourteen.

[SEAL.] WILLIAM JENNINGS BRYAN.

[SEAL.] JUSSERAND.

TREATY BETWEEN GREAT BRITAIN AND THE UNITED STATES FOR THE
ADVANCEMENT OF PEACE¹

*Signed at Washington, September 15, 1914; ratifications exchanged
November 10, 1914.*

The President of the United States of America and His Majesty the King of the United Kingdom of Great Britain and Ireland and of the British Dominions beyond the Seas, Emperor of India, being desirous to strengthen the bonds of amity that bind them together and also to advance the cause of general peace, have resolved to enter into a treaty for that purpose, and to that end have appointed as their plenipotentiaries:

The President of the United States, the Honorable William Jennings Bryan, Secretary of State of the United States; and

His Britannic Majesty, the Right Honorable Sir Cecil Arthur Spring-Rice, G. C. V. O., K. C. M. G., etc., His Ambassador Extraordinary and Plenipotentiary at Washington;

Who, after having communicated to each other their respective full

¹ U. S. Treaty Series, No. 602.

powers, found to be in proper form, have agreed upon and concluded the following articles:

ARTICLE I

The high contracting parties agree that all disputes between them, of every nature whatsoever, other than disputes the settlement of which is provided for and in fact achieved under existing agreements between the high contracting parties, shall, when diplomatic methods of adjustments have failed, be referred for investigation and report to a permanent international commission, to be constituted in the manner prescribed in the next succeeding article; and they agree not to declare war or begin hostilities during such investigation and before the report is submitted.

ARTICLE II

The international commission shall be composed of five members, to be appointed as follows: one member shall be chosen from each country, by the government thereof; one member shall be chosen by each government from some third country; the fifth member shall be chosen by common agreement between the two governments, it being understood that he shall not be a citizen of either country. The expenses of the commission shall be paid by the two governments in equal proportions.

The international commission shall be appointed within six months after the exchange of the ratifications of this treaty; and vacancies shall be filled according to the manner of the original appointment.²

ARTICLE III

In case the high contracting parties shall have failed to adjust a dispute by diplomatic methods, they shall at once refer it to the international commission for investigation and report. The international commission may, however, spontaneously by unanimous agreement offer its services to that effect, and in such case it shall notify both governments and request their coöperation in the investigation.

In the event of its appearing to His Majesty's Government that the British interests affected by the dispute to be investigated are

² The time within which the organization of the commission may be completed was extended by an exchange of notes of November 3, 1915, from May 10, 1915, to January 1, 1916. (Treaty Series, No. 602-A.)

not mainly those of the United Kingdom but are mainly those of some one or more of the self-governing dominions, namely the Dominion of Canada, the Commonwealth of Australia, the Dominion of New Zealand, the Union of South Africa, and Newfoundland, His Majesty's Government shall be at liberty to substitute as the member chosen by them to serve on the international commission for such investigation and report another person selected from a list of persons to be named one for each of the self-governing dominions but only one shall act, namely, that one who represents the dominion immediately interested.

The high contracting parties agree to furnish the permanent international commission with all the means and facilities required for its investigation and report.

The report of the international commission shall be completed within one year after the date on which it shall declare its investigation to have begun, unless the high contracting parties shall limit or extend the time by mutual agreement. The report shall be prepared in triplicate; one copy shall be presented to each government, and the third retained by the commission for its files.

The high contracting parties reserve the right to act independently on the subject matter of the dispute after the report of the commission shall have been submitted.

ARTICLE IV

This treaty shall not affect in any way the provisions of the treaty of the 11th January, 1909, relating to questions arising between the United States and the Dominion of Canada.

ARTICLE V

The present treaty shall be ratified by the President of the United States of America, by and with the advice and consent of the Senate thereof, and by His Britannic Majesty; and the ratifications shall be exchanged at Washington as soon as possible. It shall take effect immediately after the exchange of ratifications, and shall continue in force for a period of five years; and it shall thereafter remain in force until twelve months after one of the high contracting parties have given notice to the other of an intention to terminate it.

In witness whereof the respective plenipotentiaries have signed the present treaty and have affixed thereunto their seals.

Done in duplicate at Washington on the 15th day of September, in the year of our Lord nineteen hundred and fourteen.

[SEAL.] WILLIAM JENNINGS BRYAN.

[SEAL.] CECIL SPRING RICE.

TREATY BETWEEN GUATEMALA AND THE UNITED STATES FOR THE
ADVANCEMENT OF PEACE¹

*Signed at Washington, September 20, 1913; ratifications exchanged,
October 13, 1914*

The United States of America and the Republic of Guatemala, being desirous to strengthen the bonds of amity that bind them together and also to advance the cause of general peace, have resolved to enter into a treaty for that purpose and to that end have appointed as their plenipotentiaries:

The President of the United States, the Honorable William Jennings Bryan, Secretary of State; and

The President of Guatemala, Señor Don Joaquin Méndez, Envoy Extraordinary and Minister Plenipotentiary of Guatemala to the United States;

Who, after having communicated to each other their respective full powers, found to be in proper form, have agreed upon the following articles:

ARTICLE I

The high contracting parties agree that all disputes between them, of every nature whatsoever, which diplomacy shall fail to adjust, shall be submitted for investigation and report to an international commission, to be constituted in the manner prescribed in the next succeeding Article; and they agree not to declare war or begin hostilities during such investigation and report.

ARTICLE II

The international commission shall be composed of five members, to be appointed as follows: one member shall be chosen from each country, by the government thereof; one member shall be chosen by each government from some third country; the fifth member shall be

¹ U. S. Treaty Series, No. 598.

chosen by common agreement between the two governments. The expenses of the commission shall be paid by the two governments in equal proportion.

The international commission shall be appointed within four months after the exchange of the ratifications of this treaty; and vacancies shall be filled according to the manner of the original appointment.²

ARTICLE III

In case the high contracting parties shall have failed to adjust a dispute by diplomatic methods, they shall at once refer it to the international commission for investigation and report. The international commission may, however, act upon its own initiative, and in such case it shall notify both governments and request their coöperation in the investigation.

The report of the international commission shall be completed within one year after the date on which it shall declare its investigation to have begun, unless the high contracting parties shall extend the time by mutual agreement. The report shall be prepared in triplicate; one copy shall be presented to each government, and the third retained by the commission for its files.

The high contracting parties reserve the right to act independently on the subject-matter of the dispute after the report of the commission shall have been submitted.

ARTICLE IV

The present treaty shall be ratified by the President of the United States of America, by and with the advice and consent of the Senate thereof; and by the President of the Republic of Guatemala, with the approval of the Congress thereof; and the ratifications shall be exchanged as soon as possible. It shall take effect immediately after the exchange of ratifications, and shall continue in force for a period of five years; and it shall thereafter remain in force until twelve months after one of the high contracting parties have given notice to the other of an intention to terminate it.

In witness whereof the respective plenipotentiaries have signed the present treaty and have affixed thereunto their seals.

² The time within which the organization of the commission may be completed was extended by exchanges of notes of November 3, 1915, and June 1, 1916, from February 13, 1915, to July 1, 1916. (Treaty Series, Nos. 598-A and 598-B.)

Done in Washington on the 20th day of September, in the year of our Lord nineteen hundred and thirteen.

[SEAL.] WILLIAM JENNINGS BRYAN.

[SEAL.] JOAQUÍN MÉNDEZ.

TREATY BETWEEN HONDURAS AND THE UNITED STATES FOR THE ADVANCE-
MENT OF PEACE ¹

*Signed at Washington, November 3, 1913; ratifications exchanged,
July 27, 1916*

The United States of America and the Republic of Honduras, being desirous to strengthen the bonds of amity that bind them together and also to advance the cause of general peace, have resolved to enter into a treaty for that purpose and to that end have appointed as their plenipotentiaries:

The President of the United States, the Honorable William Jennings Bryan, Secretary of State; and

The President of Honduras, Señor Doctor don Alberto Membreño, Envoy Extraordinary and Minister Plenipotentiary of Honduras to the United States;

Who, after having communicated to each other their respective full powers, found to be in proper form, have agreed upon the following articles:

ARTICLE I

The high contracting parties agree that all disputes between them, of every nature whatsoever, which diplomacy shall fail to adjust, shall be submitted for investigation and report to an international commission, to be constituted in the manner prescribed in the next succeeding article; and they agree not to declare war or begin hostilities during such investigation and report.

ARTICLE II

The international commission shall be composed of five members, to be appointed as follows: one member shall be chosen from each country, by the government thereof; one member shall be chosen by each government from some third country; the fifth member shall be chosen by com-

¹ U. S. Treaty Series, No. 625.

mon agreement between the two governments. The expenses of the commission shall be paid by the two governments in equal proportion.

The international commission shall be appointed within four months after the exchange of the ratifications of this treaty; and vacancies shall be filled according to the manner of the original appointment.

ARTICLE III

In case the high contracting parties shall have failed to adjust a dispute by diplomatic methods, they shall at once refer it to the international commission for investigation and report. The international commission may, however, act upon its own initiative, and in such case it shall notify both governments and request their coöperation in the investigation.

The report of the international commission shall be completed within one year after the date on which it shall declare its investigation to have begun, unless the high contracting parties shall extend the time by mutual agreement. The report shall be prepared in triplicate; one copy shall be presented to each government, and the third retained by the commission for its files.

The high contracting parties reserve the right to act independently on the subject-matter of the dispute after the report of the commission shall have been submitted.

ARTICLE IV

The present treaty shall be ratified by the President of the United States of America, by and with the advice and consent of the Senate thereof, and by the Congress of the Republic of Honduras; and the ratifications shall be exchanged as soon as possible. It shall take effect immediately after the exchange of ratifications, and shall continue in force for a period of five years; and it shall thereafter remain in force until twelve months after one of the high contracting parties have given notice to the other of an intention to terminate it.

In witness whereof the respective plenipotentiaries have signed the present treaty and have affixed thereunto their seals.

Done in Washington on the third day of November, in the year of our Lord nineteen hundred and thirteen.

WILLIAM JENNINGS BRYAN. [SEAL.]

ALBERTO MEMBREÑO. [SEAL.]

TREATY BETWEEN ITALY AND THE UNITED STATES FOR THE ADVANCEMENT OF PEACE ¹

*Signed at Washington, May 5, 1914; ratifications exchanged,
March 19, 1915*

The President of the United States of America and His Majesty the King of Italy, being desirous to strengthen the bonds of amity that bind the two countries, and also to advance the cause of general peace, have resolved to enter into a treaty for those purposes, and to that end have appointed as their plenipotentiaries:

The President of the United States of America, the Honorable William Jennings Bryan, Secretary of State; and

His Majesty the King of Italy, His Excellency the Marquis Cusani Confalonieri, Commander of the Order of Saint Maurice and Saint Lazarus, Grand Cordon of the Order of the Crown of Italy, etc., His Ambassador Extraordinary and Plenipotentiary at Washington;

Who, after having communicated to each other their respective full powers, found to be in proper form, have agreed upon the following articles:

ARTICLE I

The high contracting parties engage to submit for investigation and report to a commission, to be constituted according to the provisions of the following article, all differences of whatever nature they may be which may occur between them which can not be composed by diplomatic methods or are not submitted to a tribunal of arbitration; they bind themselves not to declare war nor to open hostilities during the examination by the commission and before the commission has presented its report.

ARTICLE II

The international commission shall be composed of five members appointed according to the following rules:

Each country, by means of its government, chooses two members, one from among its own subjects, the other from among those of a third state; the two governments, after agreement, will name the fifth member, on condition, however, that he be not a citizen of either of these two countries. Each commissioner shall hold his place during a term of four

¹ U. S. Treaty Series, No. 615.

years; at the expiration of this term, or in the event of vacancy, the confirmation or the substitution of the commissioner whose term may have expired or whose place may be vacant shall be made in the same manner.

Each of the high contracting parties shall have the right, before the investigation has begun, to substitute for one of the members of the commission appointed by it another one chosen from the category to which the commissioner to be replaced belonged.

When the commissioners be actually occupied in the examination of a question they shall receive a compensation which will be mutually agreed upon by the high contracting parties.

The expenses of the commission shall be borne by the two governments in equal proportion. The international commission shall be appointed within six months after the exchange of the ratifications of this treaty.²

ARTICLE III

In case the high contracting parties shall have failed to adjust a dispute by diplomatic methods or by means of a tribunal of arbitration, it shall at once be referred, either by common agreement or by one or the other party, to the international commission for investigation and report.

The commission must inform the two governments of the date on which it will begin its labors, inviting them to furnish it with all the documents and to lend it the coöperation necessary for the investigation.

The high contracting parties engage to furnish all the documents and to afford all facilities for the investigation and the report, provided that in their judgment this does not conflict with the laws or with the supreme interests of the state, and provided that the interests and rights of third states shall not thereby suffer damage.

In the absence of an agreement to the contrary between the high contracting parties, the commission will itself adopt regulations governing its procedure.

The report of the commission must be presented within a period of one year after the date on which it shall declare its investigation to have begun, unless the high contracting parties may have shortened or prolonged by mutual agreement this term. The report shall be prepared in

² The time within which the organization of the commission may be completed was extended by an exchange of notes of September 18, 1915, from September 19, 1915 to January 1, 1916. (Treaty Series No. 615½).

triplicate; one copy shall be presented to each government, and the third shall be placed in the archives of the commission.

The high contracting parties reserve to themselves the right to act independently on the subject-matter of the dispute after the commission shall have presented its report.

ARTICLE IV

The present treaty shall be ratified by the President of the United States of America, by and with the advice and consent of the Senate, and by His Majesty the King of Italy, and the ratifications shall be exchanged as soon as possible.

The treaty will come into force, for a period of five years, immediately after the exchange of ratifications. It will thereafter remain in force for twelve months more after one of the high contracting parties shall have notified the other of its intention to terminate it.

In witness whereof the respective plenipotentiaries have signed the present treaty and have affixed thereunto their seals.

Done in duplicate in the English and Italian languages at Washington this fifth day of May, in the year 1914.

WILLIAM JENNINGS BRYAN. [SEAL.]
CUSANI. [SEAL.]

TREATY BETWEEN NORWAY AND THE UNITED STATES FOR THE ADVANCEMENT OF PEACE¹

*Signed at Washington, June 24, 1914; ratifications exchanged,
October 21, 1914*

The President of the United States of America and His Majesty the King of Norway, being desirous to strengthen the bonds of amity that bind them together and also to advance the cause of general peace, have resolved to enter into a treaty for that purpose, and to that end have appointed as their plenipotentiaries:

The President of the United States, William Jennings Bryan, Secretary of State of the United States; and

His Majesty the King of Norway, H. H. Bryn, Envoy Extraordinary and Minister Plenipotentiary of Norway to the United States;

Who, after having communicated to each other their respective full

¹ U. S. Treaty Series, No. 599.

powers, found to be in proper form, have agreed upon and concluded the following articles:

ARTICLE I

The high contracting parties agree that all disputes between them of every nature whatsoever shall, when diplomatic methods of adjustment have failed, be referred for investigation and report to a permanent international commission; provided, however, that treaties in force between the two parties do not prescribe settlement by arbitration of such disputes.

The commission shall be constituted in the manner prescribed in the next succeeding article.

The high contracting parties agree not to declare war or begin hostilities during such investigation and before the report is submitted.

ARTICLE II

The international commission shall be composed of five members, to be appointed as follows: one member shall be chosen from each country by the government thereof; one member shall be chosen by each government from some third country; the fifth member, who shall be the chairman of the commission, shall be chosen by common agreement between the two governments, it being understood that he shall not be a citizen of either country nor a resident in either of them. If an agreement is not reached as to this appointment, the fifth member shall be chosen according to the rules laid down in Art. 87 of the Convention signed at The Hague on October 18, 1907, for the Peaceful Settlement of International Disputes.

The expenses of the commission shall be paid by the two governments in equal proportion.

The international commission shall be appointed within four months after the exchange of the ratifications of this treaty; vacancies to be filled according to the manner of the original appointment.

Unless otherwise agreed between the parties, the procedure of the international commission shall be regulated by the prescriptions contained in Chapter III of the convention mentioned above.

ARTICLE III

In case the high contracting parties shall have failed to adjust a dispute by diplomatic methods, and the dispute is not to be settled by

arbitration, the parties shall at once refer it to the international commission for investigation and report.

The international commission may, however, spontaneously offer its services to that effect, and in such case it shall notify both governments and request their coöperation in the investigation.

The high contracting parties agree to furnish the permanent international commission with all the means and facilities required for its investigation and report.

The report of the international commission shall be completed as soon as possible and at the latest within one year after the date on which the commission shall declare its investigation to have begun, unless the high contracting parties shall extend or limit the time by mutual agreement. The report shall be prepared in triplicate; one copy shall be presented to each government, and the third retained by the commission for its files.

ARTICLE IV

The high contracting parties agree that, upon the receipt of the report of the international commission, they will immediately endeavor to adjust the dispute directly between them upon the basis of the commission's findings. They reserve, however, the right to act independently on the subject-matter of the dispute after the report of the commission shall have been submitted.

ARTICLE V

The present treaty shall be ratified by the President of the United States of America, by and with the advice and consent of the Senate thereof, and by His Majesty the King of Norway.

The ratifications shall be exchanged at Washington as soon as possible.

The treaty shall take effect immediately after the exchange of ratifications and shall continue in force for a period of five years; and it shall thereafter remain in force until twelve months after one of the high contracting parties have given notice to the other of an intention to terminate it.

In witness whereof the respective plenipotentiaries have signed the present treaty and have affixed thereunto their seals.

Done in duplicate, in the English and Norwegian languages, at Washington, this 24th day of June, 1914.

[SEAL.] WILLIAM JENNINGS BRYAN.

[SEAL.] HELMER H. BRYN.

TREATY BETWEEN PARAGUAY AND THE UNITED STATES FOR THE
ADVANCEMENT OF PEACE ¹

*Signed at Asuncion, August 29, 1914; ratifications exchanged,
March 9, 1915*

The United States of America and the Republic of Paraguay, being desirous to strengthen the bonds of amity that bind them together and also to advance the cause of general peace, have resolved to enter into a treaty for that purpose and to that end have appointed as their plenipotentiaries:

The President of the United States, His Excellency Daniel F. Mooney, Envoy Extraordinary and Minister Plenipotentiary; and

The President of Paraguay, His Excellency D. Manuel Gondra, Minister of Foreign Relations;

Who, after having communicated to each other their respective full powers, found to be in proper form, have agreed upon the following articles:

ARTICLE I

The high contracting parties agree that all disputes between them, of every nature whatsoever, which diplomacy shall fail to adjust, shall be submitted for investigation and report to an international commission, to be constituted in the manner prescribed in the next succeeding article; and they agree not to declare war or begin hostilities during such investigation, and before the report is submitted.

ARTICLE II

The international commission shall be composed of five members, to be appointed as follows: one member shall be chosen from each country, by the government thereof; one member shall be chosen by each government from some third country; the fifth member shall be chosen by common agreement between the two governments. The expenses shall be paid by the two governments in equal proportion.

The international commission shall be appointed within the four months following the exchange of the ratifications of this treaty; and

¹ U. S. Treaty Series, No. 614.

vacancies shall be filled according to the manner of the original appointment.²

ARTICLE III

In case the high contracting parties shall have failed to adjust a dispute by diplomatic methods, they shall at once refer it to the international commission for investigation and report.

The international commission may, however, act upon its own initiative, and in such case it shall notify both governments and request their cooperation in the investigation.

The report of the international commission shall be completed within one year after the date on which it shall declare its investigation to have been initiated, unless the high contracting parties shall protract the term by mutual consent. The report shall be prepared in triplicate; one copy shall be presented to each government, and the third retained by the commission for its archives.

The high contracting parties reserve the right to act independently on the subject-matter of the dispute after the report of the commission shall have been submitted.

ARTICLE IV

The present treaty shall be ratified by the President of the United States of America, by and with the advice and consent of the Senate thereof; and by the President of the Republic of Paraguay, with the approval of the Congress thereof; and the ratifications shall be exchanged as soon as possible. It shall take effect immediately after the exchange of ratifications, and shall continue in force for a period of five years, and it shall thereafter remain in force until one year after one of the high contracting parties have given notice to the other of an intention to terminate it.

In witness whereof the respective plenipotentiaries have signed the present treaty and have affixed thereunto their seals.

Done in Asuncion on the twenty-ninth of August, in the year of our Lord nineteen hundred and fourteen.

DANIEL F. MOONEY. [SEAL]

M. GONDRA. [SEAL]

² The time within which the organization of the commission may be completed was extended by an exchange of notes of November 16, 1915, from July 9, 1915 to January 15, 1916. (Treaty Series, No. 604-A.)

TREATY BETWEEN PERU AND THE UNITED STATES FOR THE ADVANCEMENT
OF PEACE ¹

Signed at Lima, July 14, 1914; ratifications exchanged, March 4, 1915

The United States of America and the Republic of Peru, with the earnest desire to strengthen their bonds of friendship and to contribute to the development of the spirit of universal peace, have resolved upon the celebration of a treaty containing the rules for the practice of these high proposals, and to that end have nominated as their plenipotentiaries:

The President of the United States, Benton McMillin, Envoy Extraordinary and Minister Plenipotentiary of the United States in Peru; and

The President of Peru, Doctor J. Fernando Gazzani, Minister of Foreign Relations;

Who, after having examined their full powers, which were found in due form, have agreed upon the following articles:

ARTICLE I

The high contracting parties agree that all disputes between them, of every nature whatsoever, to the settlement of which previous arbitration treaties or agreements do not apply in their terms or are not applied in fact, shall, when diplomatic methods of adjustment have failed, be referred for investigation and report to an international commission, to be constituted in the manner prescribed in the next succeeding article; and they agree not to declare war or begin hostilities during such investigation and before the report is submitted.

ARTICLE II

The international commission shall be composed of five members, two named by each one of the respective governments and one named jointly by them. The designations made by each government can only devolve one on a citizen of the state itself and the other on a citizen of a third country. The designation of the fifth member can not devolve upon a citizen of either of the two interested nations.

Each of the high contracting parties reserves to itself the right to

¹ U. S. Treaty Series, No. 613.

withdraw its two commissioners, or one of them, before the initiation of the investigations, and, within the same period, to withdraw its agreement to the joint designation of the fifth member. In these cases, they shall proceed to replace them according to the forms above laid down.

During the period of investigation the commissioners shall receive such pecuniary compensation as shall be agreed upon by the high contracting parties.

The commission, whose expenses shall be met in equal parts by the two governments, shall be appointed a short time after the exchange of the ratifications of the treaty; and to provide for possible vacancies on it, the same rules shall be applied as in the original designations.

ARTICLE III

The questions which divide the high contracting parties should they be incapable of solution by diplomatic means, shall be submitted immediately to the international commission for its investigation and report.

The international commission may, however, by unanimous agreement, spontaneously offer its services to that effect, and in such case it shall notify both governments, and request their coöperation in the investigation.

The high contracting parties agree to furnish the international commission all means and all facilities for the investigation and report.

The report shall be presented in the maximum period of one year, but the high contracting parties, by mutual accord, may shorten or extend this period. The report shall appear in three copies.

The commission shall reserve one of the copies for its archives and deliver the other two to the governments interested.

The high contracting parties reserve the right to act independently in the question dealt with in the investigations after the issue of the report.

ARTICLE IV

The ratifications of this treaty shall be made by the President of the United States of America by and with the advice and consent of the Senate; and by the President of Peru if the legislative power shall give its approval in conformity with the constitution and the laws. The exchange of ratifications shall take place as soon as possible, and immediately afterward this treaty shall take effect for a period of five years, at the end of which it will remain in effect until twelve months after the

day on which one of the Parties advises the other of its intention of terminating it.

In witness whereof, we the respective plenipotentiaries have signed the present treaty, in duplicate, in the English and Spanish languages and have hereunto affixed our respective seals.

Done at Lima the fourteenth day of July, in the year of our Lord one thousand nine hundred and fourteen.

BENTON McMILLIN. [SEAL.]

J. FERNANDO GAZZANI. [SEAL.]

TREATY BETWEEN PORTUGAL AND THE UNITED STATES FOR THE ADVANCE-
MENT OF PEACE ¹

*Signed at Lisbon, February 4, 1914; ratifications exchanged, October 24,
1914*

The President of the United States of America and the President of the Portuguese Republic, being desirous to strengthen the bonds of amity that bind them together and also to advance the cause of general peace, have resolved to enter into a treaty for that purpose, and to that end have appointed as their Plenipotentiaries:

The President of the United States of America: His Excellency Colonel Thomas H. Birch, Envoy Extraordinary and Minister Plenipotentiary of the United States of America near the Portuguese Republic;

The President of the Portuguese Republic: His Excellency Dr. António Caetano de Mello, Minister for Foreign Affairs;

Who, after having communicated to each other their respective full powers, found to be in proper form, have agreed upon and concluded the following articles:

ARTICLE I

The high contracting parties agree that all disputes between them, of every nature whatsoever, to the settlement of which previous arbitration treaties or agreements do not apply in their terms or are not applied in fact, shall, when diplomatic methods of adjustment have failed, be referred for investigation and report to a permanent international commission, to be constituted in the manner prescribed in the next succeeding article; and they agree not to declare war or begin hostilities during such investigation and before the report is submitted.

¹ U. S. Treaty Series, No. 600.

ARTICLE II

The international commission shall be composed of five members, to be appointed as follows: one member shall be chosen from each country, by the government thereof; one member shall be chosen by each government from some third country; the fifth member shall be chosen by common agreement between the two governments, it being understood that he shall not be a citizen of either country. The expenses of the commission shall be paid by the two governments in equal proportion.

The international commission shall be appointed within six months after the exchange of the ratifications of this treaty; and vacancies shall be filled according to the manner of the original appointment.²

ARTICLE III

In case the high contracting parties shall have failed to adjust a dispute by diplomatic methods, they shall at once refer it to the international commission for investigation and report. The international commission may, however, spontaneously offer its services to that effect, and in such case it shall notify both governments and request their coöperation in the investigation.

The high contracting parties agree to furnish the permanent international commission with all the means and facilities required for its investigation and report.

The report of the international commission shall be completed within one year after the date on which it shall declare its investigation to have begun, unless the high contracting parties shall limit or extend the time by mutual agreement. The report shall be prepared in triplicate; one copy shall be presented to each government, and the third retained by the commission for its files.

The high contracting parties reserve the right to act independently on the subject-matter of the dispute after the report of the commission shall have been submitted.

ARTICLE IV

The present treaty shall be ratified by the President of the United States of America, by and with the advice and consent of the Senate

² The time within which the organization of the commission may be completed was extended by an exchange of notes of November 16, 1915, from April 24, 1915, to April 24, 1916. (Treaty Series, No. 600-A.)

thereof; and by the President of the Portuguese Republic in accordance with the constitutional laws of the Republic; and the ratifications shall be exchanged as soon as possible. It shall take effect immediately after the exchange of ratifications, and shall continue in force for a period of five years; and it shall thereafter remain in force until twelve months after one of the high contracting parties have given notice to the other of an intention to terminate it.

In witness whereof the respective plenipotentiaries have signed the present treaty and have affixed thereunto their seals.

Done in duplicate, in the English and Portuguese languages, at Lisbon, this 4th day of February one thousand nine hundred and fourteen.

[SEAL.] THOS. H. BIRCH.

[SEAL.] ANTONIO CAETANO MACIEIRA, JÚNIOR.

TREATY BETWEEN RUSSIA AND THE UNITED STATES FOR THE
ADVANCEMENT OF PEACE ¹

*Signed at Washington, October 1/September 18, 1914; ratifications
exchanged, March 22, 1915*

The President of the United States of America and His Majesty the Emperor of all the Russias, desiring to strengthen the friendly relations which unite their countries and to serve the cause of general peace, have decided to conclude a treaty for these purposes and have consequently appointed their plenipotentiaries designated hereinafter, to wit:

The President of the United States of America, the Honorable William Jennings Bryan, Secretary of State of the United States; and

His Majesty the Emperor of all the Russias, His Excellency G. Bakhmeteff, Master of His Court and His Ambassador Extraordinary and Plenipotentiary to the United States of America;

Who, after exhibiting to each other their full powers found to be in due and proper form, have agreed upon the following articles:

ARTICLE I

Any differences arising between the Government of the United States of America and the Imperial Government of Russia, of whatever nature they may be, shall, when diplomatic proceedings have failed, be sub-

¹ U. S. Treaty Series, No. 616.

mitted for examination and report to a permanent international commission constituted in the manner prescribed in the following articles; likewise the high contracting parties agree not to resort, with respect to each other, to any acts of force during the examination to be made by the commission and before its report is handed in.

ARTICLE II

The international commission shall be composed of five members appointed as follows: each government shall designate two members; the fifth member shall be designated by common consent and shall not belong to any of the nationalities already represented on the commission; he shall perform the duties of president.

The two governments shall bear by halves the expenses of the commission.

The commission shall be organized within six months from the exchange of ratifications of the present convention.

The members shall be appointed for one year and their appointment may be renewed. They shall remain in office until superseded or re-appointed, or until the work on which they are engaged at the time their office expires is completed.

Any vacancies which may arise shall be filled in the manner followed for the original appointment.

ARTICLE III

In case a difference should arise between the high contracting parties which is not settled by diplomatic methods, each party shall have a right to ask that the examination thereof be intrusted to the international commission charged with making a report. Notice shall be given to the president of the international commission, who shall at once communicate with his colleagues.

As regards the procedure which it is to follow, the commission shall as far as possible be guided by the provisions contained in Articles 9 to 36 of Convention 1 of The Hague of 1907.

The high contracting parties agree to afford the commission, as fully as they may think possible, all means and all necessary facilities for its examination and its report.

The work of the commission shall be completed within one year from the date on which it has taken jurisdiction of the case, unless the high contracting parties should agree to set a different period.

The conclusion of the commission and the terms of its report shall be adopted by a majority. The report, signed only by the president acting by virtue of his office, shall be transmitted by him to each of the contracting parties.

The high contracting parties reserve full liberty as to the action to be taken on the report of the commission.

ARTICLE IV

The present treaty shall be ratified by the President of the United States of America, with the advice and consent of the Senate of the United States, and by His Majesty the Emperor of all the Russias.

It shall go into force immediately after the exchange of ratifications and shall last five years.

If it has not been denounced at least six months before the expiration of this period it shall be tacitly renewed for a period of twelve months after either party shall have notified the other of its intention to terminate it.

In witness whereof, the respective plenipotentiaries have signed the present treaty and have affixed thereunto their seals.

Done at Washington this ^{1 October.}_{18 September.} 1914.

[SEAL.] WILLIAM JENNINGS BRYAN.

[SEAL.] G. BAKHMÉTEFF.

TREATY BETWEEN SPAIN AND THE UNITED STATES FOR THE ADVANCEMENT OF PEACE ¹

*Signed at Washington, September 15, 1914; ratifications exchanged
December 21, 1914.*

The President of the United States of America and His Majesty the King of Spain, desiring to strengthen the friendly relations which unite their two countries and to serve the cause of general peace, have decided to conclude a treaty for these purposes and have consequently appointed the plenipotentiaries designated hereinafter, to-wit:

The President of the United States of America, the Honorable William Jennings Bryan, Secretary of State of the United States; and

His Majesty the King of Spain, His Excellency Señor Don Juan Riaño y Gayangos, His Ambassador in Washington;

¹ U. S. Treaty Series, No. 605.

Who, after exhibiting to each other their full powers, found to be in due and proper form, have agreed upon the following articles:

ARTICLE 1

Any disputes arising between the Government of the United States of America and the Government of Spain, of whatever nature they may be, shall, when ordinary diplomatic proceedings have failed and the high contracting parties do not have recourse to arbitration, be submitted for investigation and report to a permanent international commission constituted in the manner prescribed in the following article.

The high contracting parties agree not to resort, with respect to each other, to any act of force during the investigation to be made by the commission and before its report is handed in.

ARTICLE 2

The international commission shall be composed of five members appointed as follows: each government shall designate two members, only one of whom shall be of its own nationality; the fifth member shall be designated by common consent and shall not belong to any of the nationalities already represented on the commission; he shall perform the duties of president.

In case the two governments should be unable to agree on the choice of the fifth commissioner, the other four shall be called upon to designate him, and failing an understanding between them, the provisions of Article 45 of The Hague Convention of 1907 shall be applied.

The commission shall be organized within six months from the exchange of ratifications of the present convention.²

The members shall be appointed for one year and their appointment may be renewed. They shall remain in office until superseded or re-appointed, or until the work on which they are engaged at the time their office expires is completed.

Any vacancies which may arise (from death, resignation, or cases of physical or moral incapacity) shall be filled within the shortest possible period in the manner followed for the original appointment.

The high contracting parties shall, before designating the commis-

² The time within which the organization of the commission may be completed was extended by an exchange of notes of November 16, 1915, from June 21, 1915, to February 15, 1916. (Treaty Series, No. 605-A.)

sioners, reach an understanding in regard to their compensation. They shall bear by halves the expenses incident to the meeting of the commission.

ARTICLE 3

In case a dispute should arise between the high contracting parties which is not settled by the ordinary methods, each party shall have a right to ask that the investigation thereof be intrusted to the international commission charged with making a report. Notice shall be given to the president of the international commission, who shall at once communicate with his colleagues.

In the same case the president may, after consulting his colleagues and upon receiving the consent of a majority of the members of the commission, offer the services of the latter to each of the contracting parties. Acceptance of that offer declared by one of the two governments shall be sufficient to give jurisdiction of the case to the commission in accordance with the foregoing paragraph.

The place of meeting shall be determined by the commission itself.

ARTICLE 4

The two high contracting parties shall have a right, each on its own part, to state to the president of the commission what is the subject-matter of the controversy. No difference in these statements, which shall be furnished by way of suggestion, shall arrest the action of the commission.

ARTICLE 5

As regards the procedure which it is to follow, the commission shall as far as possible be guided by the provisions contained in Articles 9 to 36 of Convention 1 of The Hague of 1907.

The high contracting parties agree to afford the commission all means and all necessary facilities for its investigation and report.

The work of the commission shall be completed within one year from the date on which it has taken jurisdiction of the case, unless the high contracting parties should agree to set a different period.

The conclusion of the commission and the terms of its report shall be adopted by a majority. The report, signed only by the president acting by virtue of his office, shall be transmitted by him to each of the contracting parties.

The high contracting parties reserve full liberty as to the action to be taken on the report of the commission.

ARTICLE 6

The present treaty shall be ratified by the President of the United States of America, with the advice and consent of the Senate of the United States, and by His Majesty the King of Spain.

It shall go into force immediately after the exchange of ratifications and shall last five years.

Unless denounced six months at least before the expiration of the said period of five years, it shall remain in force until the expiration of a period of twelve months after either party shall have notified the other of its intention to terminate it.

In witness whereof the respective plenipotentiaries have signed the present treaty and have affixed thereunto their seals.

Done at Washington this 15th day of September, in the year nineteen hundred and fourteen.

[SEAL.] WILLIAM JENNINGS BRYAN.

[SEAL.] JUAN RIAÑO Y GAYANGOS.

TREATY BETWEEN SWEDEN AND THE UNITED STATES FOR THE ADVANCEMENT OF PEACE ¹

*Signed at Washington, October 13, 1914; ratifications exchanged
January 11, 1915*

The President of the United States of America and His Majesty the King of Sweden, desiring to strengthen the friendly relations which unite their two countries and to serve the cause of general peace, have decided to conclude a treaty for these purposes and have consequently appointed the plenipotentiaries designated hereinafter, to-wit:

The President of the United States of America, the Honorable William Jennings Bryan, Secretary of State of the United States; and

His Majesty the King of Sweden, Mr. W. A. F. Ekengren, His Envoy Extraordinary and Minister Plenipotentiary at Washington;

Who, after exhibiting to each other their full powers, found to be in due and proper form, have agreed upon the following articles:

¹ U. S. Treaty Series, No. 607.

ARTICLE 1

Any disputes arising between the Government of the United States of America and the Government of His Majesty the King of Sweden, of whatever nature they may be, shall, when ordinary diplomatic proceedings have failed and the high contracting parties do not have recourse to arbitration, be submitted for investigation and report to a permanent international commission constituted in the manner prescribed in the following article.

The high contracting parties agree not to resort, with respect to each other, to any act of force during the investigation to be made by the commission and before its report is handed in.

ARTICLE 2

The international commission shall be composed of five members appointed as follows: each government shall designate two members, only one of whom shall be of its own nationality; the fifth member shall be designated by common consent and shall not belong to any of the nationalities already represented on the commission; he shall perform the duties of president.

In case the two governments should be unable to agree on the choice of the fifth commissioner, the other four shall be called upon to designate him, and failing an understanding between them, the provisions of Article 45 of The Hague Convention of 1907 shall be applied.

The commission shall be organized within six months from the exchange of ratifications of the present convention.²

The members shall be appointed for one year and their appointment may be renewed. They shall remain in office until superseded or re-appointed, or until the work on which they are engaged at the time their office expires is completed.

Any vacancies which may arise (from death, resignation, or cases of physical or moral incapacity) shall be filled within the shortest possible period in the manner followed for the original appointment.

The high contracting parties shall, before designating the commissioners, reach an understanding in regard to their compensation. They shall bear by halves the expenses incident to the meeting of the commission.

² The time within which the organization of the commission may be completed was extended by an exchange of notes of November 16, 1915, from July 11, 1915, to January 15, 1916. (Treaty Series, No. 607-A.)

ARTICLE 3

Differences that may happen to occur between the high contracting parties and should fail of settlement by diplomatic methods shall be forthwith referred to the examination of the international commission which will undertake to make a report. By a note addressed to the International Bureau of the Permanent Court at The Hague, which shall communicate it without delay to both governments, the president may remind the parties that the services of the international commission are at their disposal.

ARTICLE 4

The two high contracting parties shall have a right, each on its own part, to state to the president of the commission what is the subject-matter of the controversy. No difference in these statements, which shall be furnished by way of suggestion, shall arrest the action of the commission.

In case the cause of the dispute should consist of certain acts already committed or about to be committed, the commission shall as soon as possible indicate what measures to preserve the rights of each party ought in its opinion to be taken provisionally and pending the delivery of its report.

ARTICLE 5

As regards the procedure which it is to follow, the commission shall as far as possible be guided by the provisions contained in Articles 9 to 36 of Convention 1 of The Hague of 1907.

The high contracting parties agree to afford the commission all means and all necessary facilities for its investigation and report.

The work of the commission shall be completed within one year from the date on which it has taken jurisdiction of the case, unless the high contracting parties should agree to set a different period.

The conclusion of the commission and the terms of its report shall be adopted by a majority. The report, signed only by the president acting by virtue of his office, shall be transmitted by him to each of the contracting parties.

The high contracting parties reserve full liberty as to the action to be taken on the report of the commission.

ARTICLE 6

The present treaty shall be ratified by the President of the United States of America, upon his being authorized thereto by the American Senate, and by His Majesty the King of Sweden.

The ratifications shall be exchanged at Washington as soon as possible and the treaty shall go into force on the day of the exchange of ratifications.

Its duration shall be five years counted from the exchange of ratifications.

Unless denounced six months at least before the expiration of the said period it shall continue by tacit renewal for another period of five years and so on in periods of five years unless denounced.

In witness whereof the respective plenipotentiaries have signed the present treaty and have affixed thereunto their seals.

Done at Washington this 13th day of October, in the year nineteen hundred and fourteen.

[SEAL.] WILLIAM JENNINGS BRYAN.

[SEAL.] W. A. F. EKENGREN.

TREATY BETWEEN URUGUAY AND THE UNITED STATES FOR THE ADVANCEMENT OF PEACE ¹

*Signed at Washington, July 20, 1914; ratifications exchanged,
February 24, 1915*

The United States of America and the Oriental Republic of Uruguay, being desirous to strengthen the bonds of amity that bind them together and also to advance the cause of general peace, have resolved to enter into a treaty for that purpose, and to that end have appointed as their plenipotentiaries:

The President of the United States, the Honorable William Jennings Bryan, Secretary of State; and

The President of Uruguay, his Envoy Extraordinary and Minister Plenipotentiary to the United States, Señor Dr. Don Carlos Maria de Pena;

Who, after having communicated to each other their respective full powers, found to be in proper form, have agreed upon and concluded the following articles:

¹ U. S. Treaty Series, No. 611.

ARTICLE I

The high contracting parties agree that all disputes between them, of every nature whatsoever, to the settlement of which previous arbitration treaties or agreements do not apply in their terms or are not applied in fact, shall, when diplomatic methods of adjustment have failed, be referred for investigation and report to a permanent international commission, to be constituted in the manner prescribed in the next succeeding article; and they agree not to declare war or begin hostilities during such investigation and before the report is submitted.

ARTICLE II

The international commission shall be composed of five members, to be appointed as follows: one member shall be chosen from each country, by the government thereof; one member shall be chosen by each government from some third country; the fifth member shall be chosen by common agreement between the two governments, it being understood that he shall not be a citizen of either country. Each of the high contracting parties shall have the right to remove, at any time before investigation begins, any commissioner selected by it and to name his successor, and under the same conditions shall also have the right to withdraw its approval of the fifth commissioner selected jointly; in which case a new commissioner shall be selected jointly as in the original selection. The commissioners shall, when actually employed in the investigation of a dispute, receive such compensation as shall be agreed upon by the high contracting parties. The expenses of the commission shall be paid by the two governments in equal proportion.

The international commission shall be appointed as soon as possible after the exchange of the ratifications of this treaty; and vacancies shall be filled according to the manner of the original appointment.

ARTICLE III

In case the high contracting parties shall have failed to adjust a dispute by diplomatic methods, they shall at once refer it to the international commission for investigation and report. The international commission may, however, by unanimous agreement spontaneously offer its services to that effect, and in such case it shall notify both governments and request their coöperation in the investigation.

The high contracting parties agree to furnish the permanent inter-

national commission with all the means and facilities required for its investigation and report.

The report of the international commission shall be completed within one year after the date on which it shall declare its investigation to have begun, unless the high contracting parties shall limit or extend the time by mutual agreement. The report shall be prepared in triplicate; one copy shall be presented to each government and the third retained by the commission for its files:

The high contracting parties reserve the right to act independently on the subject-matter of the dispute after the report of the commission shall have been submitted.

ARTICLE IV

The present treaty shall be ratified by the President of the United States of America, by and with the advice and consent of the Senate thereof; and by the President of Uruguay, in accordance with the constitution and laws thereof; and the ratifications shall be exchanged as soon as possible. It shall take effect immediately after the exchange of ratifications, and shall continue in force for a period of five years; and it shall thereafter remain in force until twelve months after one of the high contracting parties have given notice to the other of an intention to terminate it.

In witness whereof the respective plenipotentiaries have signed the present treaty and have affixed thereunto their seals.

Done in Washington on the 20th day of July, in the year nineteen hundred and fourteen.

WILLIAM JENNINGS BRYAN. [SEAL.]

CÁRL^s M^a DE PENA. [SEAL.]

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SUPPLEMENT

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NOTICE

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	Ambassador Penfield to the Secretary of State (telegram).	Dec. 29	Transmits note from Austro-Hungarian Foreign Office communicating result of investigation of sinking of <i>Ancona</i> , justifying attack but accepting partial responsibility for losses of life.	301
	The Secretary of State to Ambassador Penfield (telegram).	1916. April 17	Instructs Ambassador to obtain report from Austrian Government on destruction of Russian bark <i>Imperator</i> by an Austrian submarine.	305
	Ambassador Penfield to the Secretary of State (telegram).	May 3	Communicates report from Austrian Government on destruction of <i>Imperator</i> .	305
	The Secretary of State to Ambassador Penfield (telegram).	June 21	Communicates information concerning attack on the American steamer <i>Petrolite</i> , and instructs Ambassador to demand apology and reparation.	306

3. Correspondence Regarding Warfare between Submarines and Armed Merchant Vessels.

The Secretary of State to the Ambassadors of Great Britain, France, Russia, Italy, and Belgium.	Jan. 18	Informal letter in which is presented a formula designed to bring submarine warfare within the rules of international law and the principles of humanity.	310
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Submarine Warfare—Continued.

No.	From and to whom.	Date.	Subject.	Page.
		1916.		
	The Secretary of State to the Japanese Ambassador.	Jan. 24	Same, mutatis mutandis, as above.	310
1293	Ambassador Penfield to the Secretary of State.	Feb. 12	Transmits copy of a circular note verbale from the Austro-Hungarian Foreign Office on the treatment of armed merchantmen.	313
2451	Ambassador Gerard to the Secretary of State.	Feb. 14	Transmits copy of the memorandum of the German Government on the treatment of armed merchantmen.	314
	The German Ambassador to the Secretary of State.	Feb. 29	Advises of status of merchant vessels, and of English newspaper reports on armed merchantmen.	335
	The British Ambassador to the Secretary of State.	Mar. 23	Transmits memorandum declining to accede to proposals contained in informal letter of Jan. 18, 1916, concerning armed merchantmen and submarine warfare.	336
	The Secretary of State to the Ambassadors of Great Britain, France, Russia, Italy, and Belgium.	Apr. 7	Acknowledges with expression of regret that proposed arrangement was declined.	338
2880	Ambassador Gerard to the Secretary of State.	Apr. 11	Transmits copy of official order said to have been issued by the English Admiralty for armed English merchant vessels in the event of encountering hostile submarines.	339
	The Japanese Ambassador to the Secretary of State.	May 18	States that his Government is in full agreement with the allied Governments and unable to meet Mr. Lansing's suggestions.	340

Submarine Warfare—Continued.

No.	From and to whom.	Date.	Subject.	Page.
	The Secretary of State to the Japanese Ambassador.	1916. June 1	Acknowledges note of May 18, 1916, with expression of regret that proposed arrangement was declined.	338

4. Status of Belligerent Submarines in Neutral Waters.

Memorandum from the French Embassy.	Aug. 21	Exhorts neutral Governments to take measures to prevent belligerent submarines from availing themselves of neutral waters.	342
Memorandum from the Italian Embassy.	Aug. 21	Same as above.....	342
Memorandum from the British Embassy	Aug. 22	Do.....	342
Memorandum from the Russian Embassy.	Aug. 26	Do.....	342
Memorandum from the Japanese Embassy.	Aug. 28	Do.....	342
Memorandum from the Portuguese Legation.	Aug. 30	Do.....	342
Memoranda to the embassies of France, Great Britain, Russia, and Japan.	Aug. 31	Informs the allied powers of the attitude of the United States toward belligerent submarines in neutral waters and reserves its liberty of action in all respects.	343
Memorandum to the Italian Embassy.	Sept. 8	Same, mutatis mutandis, as above.....	343
Memorandum to the Portuguese Legation.	Sept. 13	Do.....	343

PART V.

Destruction of American Merchantman "William P. Frye" by the German Ship "Prinz Eitel Friedrich."

No.	From and to whom.	Date.	Subject.	Page.
1964	Ambassador Gerard to the Secretary of State (telegram).	1915. Sept. 20	Transmits note received from the Foreign Office in the <i>William P. Frye</i> case, relative to the ascertainment of damages, and agreeing to separate the question of indemnity from the question of interpretation of the Prussian-American treaties.	345
	The Secretary of State to Ambassador Gerard (telegram).	Oct. 12	Reply to the German note of Sept. 19, 1915.	347
	Ambassador Gerard to the Secretary of State (telegram).	Dec. 2	Transmits copy of note from German Foreign Office, dated Nov. 29, 1915, declining to accept the suggestion of the American Government that the experts who are to fix the amount of damages meet in Washington, and for the nomination of an umpire. The German Government submits a draft of a <i>compromis</i> relative to the interpretation of the Prussian-American treaties.	349

PART VI.

Exportation of Arms and Munitions of War.

88855	Austro-Hungarian Minister for Foreign Affairs to Ambassador Penfield.	Sept. 24	Replies to American note of Aug. 16, 1915, and adheres to the views set forth in the previous note from Austria No. 59465, dated June 29, 1915.	354
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PART VII.

Recall of Dr. Constantin Theodor Dumba, Austro-Hungarian Ambassador at Washington.

No.	From and to whom.	Date.	Subject.	Page.
	The Secretary of State to Ambassador Penfield (telegram).	1915. Sept. 8	Instructs him to request the recall of the Ambassador of Austria-Hungary.	361
	Ambassador Penfield to the Secretary of State (telegram).	Sept. 30	Reports receipt of a reply to Department's note of Sept. 8, 1915.	362

PART VIII.

Recall of Captain Von Papen, Military Attaché, and Captain Boy-Ed, Naval Attaché of the German Embassy at Washington.

1686	The Secretary of State to the German Ambassador.	Dec. 4	Confirms conversation and requests recall of Capt. Boy-Ed, naval attaché, and Capt. von Papen, military attaché.	363
	Do.....	Dec. 10	Refers to his statement of Dec. 1, in connection with recall of Capts. Boy-Ed and von Papen and urges immediate action.	364
J. Nr. 48061	The German Ambassador to the Secretary of State.	Dec. 10	Informs him that the Emperor has been pleased to recall Capts. Boy-Ed and von Papen and asks for safe conduct for their return to Germany.	364
	The Secretary of State to the German Ambassador.	Dec. 11	States that the United States Government has requested safe conducts for the return of Capts. Boy-Ed and von Papen to Germany.	365
	The Secretary of State to the German Ambassador.	Dec. 15	Advises him that the British and French Ambassadors have arranged for safe conducts to Capts. Boy-Ed and von Papen for their return to Germany.	365

Recall of Captains Von Papen and Boy-Ed—Continued.

No.	From and to whom.	Date.	Subject.	Page.
	Do.....	1915. Dec. 18	Transmits authenticated copies of notes from the British and French Ambassadors, which will be regarded as safe conducts. Passport for each of the gentlemen is also inclosed.	366

PART IX.

Status of Armed Merchant Vessels.

Department memorandum.	1916. Mar. 25	Memorandum prepared by direction of the President in regard to the status of armed merchant vessels in neutral ports and on the high seas.	367
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PART X.

Hovering of British Warships near the Territorial Waters of the United States.

Collector of Customs, Norman R. Hamilton, to the Secretary of the Treasury.	1915. Nov. 20	Transmits affidavit of Charles Moller, Master of the Danish steamship <i>Vinland</i> , describing pursuit of that vessel by a British warship.	373
The British Ambassador to the Acting Secretary of State.	Nov. 27	Acknowledges letter regarding the following of the Danish ship <i>Vinland</i> by a British warship within the three-mile limit.	375
The British Ambassador to the Secretary of State.	Dec. 1	States that British ships of war employed in the Atlantic have strict orders against the violation of American territorial wa-	375

British Warships near Territorial Waters of United States—Continued.

No.	From and to whom.	Date.	Subject.	Page.
		1915.		
429	The British Ambassador to the Secretary of State.	Dec. 11	ters, which orders he believes to have been carefully observed. Communicates information as to the steamship <i>Vinland</i>	376
1016	The Secretary of State to the British Ambassador.	Dec. 16	Reply concerning the steamship <i>Vinland</i>	376
	The British Ambassador to the Secretary of State.	Dec. 21	Acknowledges receipt of preceding note and states that it has been communicated to his Government.	378
1026	The Secretary of State to the British Ambassador.	Dec. 22	Refers to his note of December 16, 1915, in response to Embassy's note of the 11th instant, relative to the case of the steamship <i>Vinland</i> .	378
		1916.		
	The British Ambassador to the Secretary of State.	Mar. 20	Correspondence concerning the steamship <i>Vinland</i> case.....	379
1152	The Secretary of State to the British Ambassador.	Apr. 26	States the grounds upon which the objection to the continued presence of belligerent vessels of war in close proximity to American ports is based, and discusses the historical aspects of the American contention.	383

PART XI.

Case of the British Steamship "Appam," Captured by German Naval Forces and Brought by a Prize Crew into an American Port.

J. Nr. A785	German Ambassador to Secretary of State.	Feb. 2	Reports arrival at American port of British S. S. <i>Appam</i> , captured by German	387
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Case of the British Steamship "Appam"—Continued.

No.	From and to whom.	Date.	Subject.	Page.
		1916.		
	Secretary of State to British Ambassador.	Feb. 3	naval forces. Requests internment of a military party of the enemy as well as the crew of the ship. Inquires whether any of the gentlemen named on list of persons on board the <i>Appam</i> are members of His Majesty's armed forces.	388
	Memorandum from the British Embassy.	Feb. 4	Refers to Art. 21 and Art. 23 of the Hague Convention, No. XIII of 1907, and requests that principles be applied to the <i>Appam</i> . Requests that if ship is regarded as a prize she be restored to her original owners.	388
	Memorandum from the German Embassy.	Feb. 8	States that the <i>Appam</i> must be dealt with according to Art. 19 of Prusso-American Treaty of 1799.	390
	Memorandum from the British Embassy.	Feb. 12	Directs attention to the necessity that adequate precaution be taken to prevent increase in crew or armament, or change in personnel that would augment the force of the <i>Appam</i> .	390
	Memorandum from the British Embassy.	Feb. 15	The claims of the British Government are not to be prejudiced by any action by the ship's owners.	391
J. Nr. A1293	German Ambassador to Secretary of State.	Feb. 22	Reports the filing of a libel against the <i>Appam</i> , protests against the action of the U. S. court, and asks that the necessary steps be taken to secure prompt dismissal of the libel.	391

Case of the British Steamship "Appam"—Continued.

No.	From and to whom.	Date.	Subject.	Page.
		1916.		
	Secretary of State to German Ambassador.	Mar. 2	Discusses the status of the <i>Appam</i> , states that U. S. Government considers itself free from any obligation to accord <i>Appam</i> privileges stipulated under Art. 19 of the treaty of 1799, and adds that the Attorney General will present to the court a copy of the Ambassador's note.	392
J. Nr. A1829	German Ambassador to Secretary of State.	Mar. 14	States that at this time the proposed removal of vessel to wharf does not seem necessary.	395
J. Nr. A1727	German Ambassador to Secretary of State.	Mar. 16	Proposes that construction of the treaty of 1799 be referred to the Hague Court of Arbitration.	397
	British Ambassador to Secretary of State.	Mar. 31	States that detention of <i>Appam</i> under conditions is a violation of American neutrality.	399
	Secretary of State to British Ambassador.	Apr. 4	States that the presence of <i>Appam</i> under conditions in American waters is not a violation of the neutrality of the United States.	400
2217	Secretary of State to German Ambassador.	Apr. 7	Discusses application of Art. 19 of treaty of 1799 to case of <i>Appam</i> ; can not accept proposal to refer construction of the treaty to the Hague Court of Arbitration.	401

PART XII

Interferences by Belligerents With Mails.

No.	From and to whom.	Date.	Subject.	Page.
		1916.		
	The Secretary of State to Ambassador W. H. Page (telegram).	Jan. 4	Instructs Mr. Page to protest to British Government against interferences with mails.	404
	The French Ambassador to the Secretary of State.	Apr. 3	Transmits memorandum from the French and English Governments replying to American protest against interference with mails.	405
85	The British Ambassador to the Secretary of State.	Apr. 3	Transmits memorandum identical with foregoing.	412
1186	The Secretary of State to the British Ambassador.	May 24	Acknowledges memorandum dated February 15, 1916, and says that only a radical change in the present policy restoring to the United States its full rights as a neutral power will satisfy the United States Government.	412
	The Secretary of State to the French Ambassador.	May 24	Same, mutatis mutandis, as above.	412
307	British Ambassador to the Secretary of State.	Oct. 12	Transmits joint memorandum of British and French Governments in reply to the American note of May 24, 1916, regarding the examination of the mails.	418

PART XIII.

Removal of Enemy Subjects from American Vessels.

The Secretary of State to Ambassador W. H. Page (telegram).	Feb. 23	Instructs him to insist upon release of Germans, Austrians and Turks removed from American steamship <i>China</i> by British cruiser <i>Laurentic</i> .	427
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Removal of Enemy Subjects from American Vessels—Continued.

No.	From and to whom.	Date.	Subject.	Page.
3259	Ambassador W. H. Page to the Secretary of State.	1916. Mar. 17	Encloses note from the British Foreign Office in reply to the representations made in compliance with the Department's instructions of Feb. 23, 1916.	428

PART XIV.

Escape of Officers and Men from German Ships Interned in the United States.

1661	The Secretary of State to the German Ambassador.	1915. Nov. 16	Calls attention to facts relating to the escape from time to time of certain paroled officers and men from the <i>Kronprinz Wilhelm</i> and the <i>Prinz Eitel Friedrich</i> .	433
	The Secretary of State to Ambassador Gerard (telegram).	Nov. 17	Informes him that the German Ambassador has been requested to bring to attention of his Government facts concerning escape of paroled German officers and men from ships interned in United States ports, and to ask for their immediate return to the United States for internment with their respective vessels.	435
J. Nr. 47545	The German Ambassador to the Secretary of State.	Nov. 22	Asks that order to photograph the officers and crews of the interned German cruisers be not enforced.	436
	The Secretary of State to the German Ambassador.	Nov. 23	Gives views of United States in regard to the photographing of the crews of the interned German cruisers.	436

Escape of Men from German Ships Interned in U. S.—Continued.

No.	From and to whom.	Date.	Subject.	Page.
J. Nr. A7586	The German Ambassador to the Secretary of State.	1915. Nov. 24	Reports on the particulars in connection with the es- cape of certain officers and men interned on the <i>Kron- prinz Wilhelm</i> and <i>Prinz Eitel Friedrich</i> .	437
2708	Ambassador W. H. Page to the Secretary of State.	Dec. 16	Transmits note from Foreign Office concerning the iden- tity of Lieut. zur See Henry Koch, detained in Edinburgh, together with copy of Koch's letter and the Consul's letter of transmittal.	438
	The Secretary of State to the British Ambassador.	Dec. 22	Gives information concern- ing Lieut. zur See Henry Koch, detained as a pris- oner of war in England who states he has escaped from internment at Nor- folk.	440
	The Secretary of State to Ambassador Gerard (tele- gram).	Dec. 22	Directs him to urge that a prompt reply be made by German Government to the representations made to the German Ambassa- dor, and to report by cable.	440
3046	The Secretary of State to Ambassador W. H. Page.	1916. Jan. 7	Acknowledges receipt of dis- patch dated Dec. 16, 1915, and informs him that in view of the breach of pa- role by Lieut. Koch no rep- resentations will be made to the British Government.	441
2496	Ambassador Gerard to the Secretary of State.	Feb. 21	Transmits copy of Foreign Office's Note, dated Feb. 16, 1916, regarding the es- cape of officers and men from the German auxiliary cruisers <i>Kronprinz Wil- helm</i> and <i>Prinz Eitel Fried- rich</i> .	441

Escape of Men from German Ships Interned in U. S.—Continued.

No.	From and to whom.	Date.	Subject.	Page.
	The Secretary of State to Ambassador Gerard (telegram).	1916. Mar. 9	Gives views of the United States Government in connection with escape of interned officers and men and urges immediate reply.	443

PART XV.

Status of American Consular Officers in Belligerent Territory Occupied by Enemy Troops.

308	Ambassador Gerard to the Secretary of State.	1914. Dec. 4	Transmits copy of a note verbale from the German Foreign Office stating the position of the German Government concerning the recognition of consular officers in territory under occupation by the German Army.	445
	The Belgian Minister to the Secretary of State.	Dec. 28	Informs him that the Belgian Government has entered a protest at Berlin, under Article 42 of the 4th Convention of The Hague, concerning the right to cancel exequaturs.	446
425	Ambassador Gerard to the Secretary of State.	1915. Jan. 11	Transmits copy of a note verbale from the German Foreign Office dated Jan. 3, 1915, and a note verbale addressed to the German Foreign Office by the Spanish Embassy at Berlin, relative to the protest of the Belgian Government concerning the recognition of consular officers in territory under occupation by the German Army.	447

American Consular Officers in Belligerent Territory—Continued.

No.	From and to whom.	Date.	Subject.	Page.
		1915.		
	The Secretary of State to Ambassador Gerard (telegram).	Jan. 21	Instructs him to present the accompanying note to the German Government concerning the recognition of consular officers in territory under occupation by the German Army.	448
	The Secretary of State to the Belgian Minister.	Jan. 25	Acknowledges receipt of note in connection with the intention of the German Government to cancel the exequaturs granted by the Belgian Government, etc.	450
898	The Belgian Minister to the Secretary of State.	Feb. 13	Transmits copy of the German Government's reply to the Belgian Government's protest concerning cancellation of exequaturs and also copy of another note from the Belgian Government delivered by the Spanish Embassy at Berlin.	450
664	Ambassador Gerard to the Secretary of State.	Mar. 12	Transmits copy of the reply of the German Foreign Office on the subject of the consular representation of the United States in Belgium.	452
	Ambassador Penfield to the Secretary of State (telegram).	Nov. 13	Reports that permission has been requested by Vice Consul Young to return to Belgrade and ask for ruling by the Department as to whether Vice Consul Young is subordinate to the Embassy at Vienna or the Legation at Bucharest.	453
	Ambassador Penfield to the Secretary of State (telegram).	Nov. 14	Quotes extract of telegram from Vice Consul Young asking for instruction as to whether he should join	453

American Consular Officers in Belligerent Territory—Continued.

No.	From and to whom.	Date.	Subject.	Page.
		1915.		
	The Secretary of State to Ambassador Penfield (telegram).	Nov. 17	Serbian Government via Italy or remain in Belgrade. Informs him that under existing conditions Vice Consul Young should remain in Belgrade under his supervision.	454
	Ambassador Penfield to the Secretary of State (telegram).	Nov. 20	Reports informal discussion with members of Austro-Hungarian Ministry of Foreign Affairs concerning the status of Vice Consul Young at Belgrade.	454
	The Secretary of State to Ambassador Penfield (telegram).	Nov. 23	Informs him of Department's attitude concerning request made by Austria-Hungary for the withdrawal of the American consulate from Belgrade.	454
	Ambassador Penfield to the Secretary of State (telegram).	Nov. 23	Arrival of Vice Consul Young at Belgrade. Military authorities declare it impossible for him to remain.	455
	Ambassador Penfield to the Secretary of State (telegram).	Dec. 7	Reports the conditions under which the return of Vice Consul Young to Belgrade is consented to by the Austro-Hungarian Government.	456
	The Secretary of State to Ambassador Penfield (telegram).	Dec. 23	Instructs him that Vice Consul Young should make arrangements for the sealing of the archives and closing of consulate at Belgrade.	456
		1916.		
74	Vice Consul Young to the Secretary of State.	Jan. 17	Reports closing of consulate at Belgrade and his arrival in Vienna on Jan. 10, 1916.	457

American Consular Officers in Belligerent Territory—Continued.

No.	From and to whom.	Date.	Subject.	Page.
	Ambassador Gerard to the Secretary of State (telegram).	1916. June 14	German Foreign Office inquires as to acceptability of proposed form of recognition of American consul at Warsaw.	458
	The Acting Secretary of State to Ambassador Gerard (telegram).	July 12	German proposal regarding form of recognition of American consul at Warsaw is acceptable to United States Government.	458

PART XVI.

Dual Nationality—Military Service Case of Frank Ghiloni.

		1915.		
	The Secretary of State to Ambassador T. N. Page (telegram).	Jan. 13	Instructs Mr. Page to ask for release of Mr. Ghiloni.	460
	The Secretary of State to Ambassador T. N. Page (telegram).	Jan. 21	Asks for report in the case of Frank L. Ghiloni.	460
	Ambassador T. N. Page to the Secretary of State (telegram).	Jan. 22	States that he has received no reply to his note of the 14th regarding Ghiloni and adds that he is renewing request.	460
	The Secretary of State to Consul Grace (telegram).	Feb. 20	Instructs him to advise Frank Ghiloni that efforts are being made to obtain his release.	461
	The Secretary of State to Ambassador T. N. Page (telegram).	Mar. 25	Inquiries as to the status of the Ghiloni case.	461
	Ambassador T. N. Page to the Secretary of State (telegram).	Mar. 26	Informs him that he has received no definite reply to his several requests for release of Ghiloni and that he is again urging action.	461
	The Secretary of State to Ambassador T. N. Page (telegram).	May 6	Asks for report as to status of Ghiloni case.	461

Dual Nationality—Continued.

No.	From and to whom.	Date.	Subject.	Page.
		1915.		
	Ambassador T. N. Page to the Secretary of State (telegram).	May 7	States that Ghiloni case is still undecided.	462
	Ambassador T. N. Page to the Secretary of State (telegram).	May 18	Reports that Ministry of War have decided it is impossible to exempt Frank Ghiloni from liability to military service.	462
	The Secretary of State to Ambassador T. N. Page (telegram).	June 7	States facts concerning birth and residence of Frank L. Ghiloni and reasons for his visit to Italy, and instructs him to continue his efforts to secure release.	462
	Ambassador T. N. Page to the Secretary of State (telegram).	June 11	States that Ghiloni case has again been brought to attention of the Foreign Office with request for early reply, but that no reply has been received.	463
	The Secretary of State to Ambassador T. N. Page (telegram).	July 20	Instructs him to ask Italian Government to make a reasonable discrimination in the case of Frank Ghiloni because he was born a citizen of the United States, urging early decision.	463
	Ambassador T. N. Page to the Secretary of State (telegram).	Aug. 13	States that decision in Ghiloni case will soon be made.	464
	Ambassador T. N. Page to the Secretary of State (telegram).	Aug. 18	States the case of Frank Ghiloni is being carefully investigated.	464
362	Ambassador T. N. Page to the Secretary of State.	Aug. 27	States that Ghiloni is not exempted from military service under Art. 12 of the Italian Civil Code, and also transmits copy of notes verbale of May 16 and Aug. 27.	464

Dual Nationality—Continued.

No.	From and to whom.	Date.	Subject.	Page.
		1915.		
	The Secretary of State to Ambassador T. N. Page (telegram).	Sept. 4	Asks for further information concerning Ghiloni case.	463
367	Ambassador T. N. Page to the Secretary of State.	Sept. 4	Expresses hope that Italian Government will relieve Ghiloni from duty on ground of poor health and transmits copy of a note verbale to the foreign office asking for a medical examination of Ghiloni.	467
	Ambassador T. N. Page to the Secretary of State (telegram).	Sept. 5	States that Ghiloni's release has been refused by War Office on ground that he was born prior to his father's naturalization.	468
	The Secretary of State to Ambassador T. N. Page (telegram).	Oct. 23	Asks for report of status of Ghiloni case.	468
	Ambassador T. N. Page to the Secretary of State (telegram).	Oct. 25	States that Ghiloni's release has been definitely refused by military authorities, who state that if he is sick he will receive proper medical treatment from Army surgeons.	468
396	Ambassador T. N. Page to the Secretary of State.	Oct. 25	Transmits copy of a note verbale from the Italian Foreign Office, which note declines to exempt Frank Ghiloni from military service.	469
		1916.		
707	The Secretary of State to Ambassador Penfield.	Jan. 8	Instructs him to present the case of Frank L. Ghiloni to Austro-Hungarian Government and endeavor to secure his release because of his American citizenship.	469

Dual Nationality—Continued.

No.	From and to whom.	Date.	Subject.	Page.
	The Secretary of State to Ambassador Penfield (telegram).	1916. Feb. 18	Instructs him to emphasize fact that Frank Ghiloni was born an American citizen and ask for his release and permission to return to this country.	470
	The Secretary of State to Ambassador T. N. Page (telegram—par.).	Feb. 18	Mr. Page is instructed to secure a definite reply in case of Frank Ghiloni and emphasize fact that he was born an American citizen.	471
	Ambassador Penfield to the Secretary of State (telegram).	Mar. 3	States that information has been received that Frank Ghiloni was wounded and taken prisoner in October last and that he is awaiting reply from competent authorities concerning his release.	471
461	Ambassador T. N. Page to the Secretary of State.	Mar. 4	Reports on status of Ghiloni case.	472
	Ambassador Penfield to the Secretary of State (telegram).	Mar. 14	States that ministry asks what guarantee can be given that Frank Ghiloni will not bear arms against monarch or allies during present war in case of his release.	472
1404	Ambassador Penfield to the Secretary of State.	Mar. 16	Transmits copy of a note verbale relative to the case of Frank Ghiloni, and also copy of embassy's note verbale in reply to this communication.	472
	The Acting Secretary of State to Ambassador Penfield (telegram).	Mar. 21	Instructs him to inquire of Foreign Office if Ghiloni's sworn statement that he would not bear arms against monarch or allies would be accepted and, if not, what guarantee would be required.	475

Dual Nationality—Continued.

No.	From and to whom.	Date.	Subject.	Page.
309	The Secretary of State to Ambassador T. N. Page.	1916. Mar. 23	Instructs him to ask Italian Government whether Art. 7 of the Italian Law on Citizenship is applicable to persons born in this country of Italian parents, etc.	475
	Ambassador Penfield to the Secretary of State (telegram).	Mar. 27	States that Austro-Hungarian Government can not release Mr. Ghiloni unless Italian Government recognizes his American citizenship.	476
	The Secretary of State to Ambassador Penfield (telegram).	Mar. 31	Instructs him to ask release of Ghiloni upon his sworn statement that he would return immediately to the United States and not leave during continuance of war.	476
	The Secretary of State to Ambassador Penfield (telegram).	Apr. 25	Instructs him to inquire if Austro-Hungarian authorities will release Ghiloni upon his promise suggested and department's assurance that passport will not be issued to him to leave United States during continuation of war.	477
	Ambassador Penfield to the Secretary of State (telegram).	May 5	States that Austro-Hungarian Government agrees to release Ghiloni if he will make a sworn affidavit that he will not bear arms against central powers during the present war.	477
	The Secretary of State to Ambassador Penfield (telegram).	May 8	Department agrees to conditions for the release of Mr. Ghiloni, and says that Department does not believe he would be seized by the entente	478

Dual Nationality—Continued.

No.	From and to whom.	Date.	Subject.	Page.
		1916.	powers, and if so the United States would demand his immediate release.	
	Ambassador Penfield to the Secretary of State (telegram).	June 19	Reports the release and delivery to the Embassy of Frank Ghiloni.	478

OFFICIAL DOCUMENTS.

DIPLOMATIC CORRESPONDENCE BETWEEN THE UNITED STATES AND BELLIGERENT GOVERNMENTS RELATING TO NEUTRAL RIGHTS AND COMMERCE.

PART I.

DECLARATION OF LONDON.

(Continuation of correspondence printed in Special Supplement, July, 1915, pp. 1-8.)

Ambassador Sharp to the Secretary of State.

[Telegram.]

AMERICAN EMBASSY,
Paris, October 26, 1915.

Following decree published in *Journal Officiel* to-day:

Article one. The provisions of Article 57, paragraph one, of the Declaration signed at London, February twenty-sixth, 1909, relating to naval warfare, shall be applied during the present war, with the following modification to it: whenever it is established that a ship flying an enemy flag belongs in fact to the nationals of a neutral or an allied country, or conversely that a ship flying a neutral or allied flag belongs in fact to nationals of an enemy country, or to parties residing in an enemy country, the ship shall accordingly be considered neutral, allied, or enemy.

Article two. The President of the Council, Minister for Foreign Affairs, and the Minister of Marine, each in his province, are charged with the execution of this decree.

SHARP.

Ambassador W. H. Page to the Secretary of State.

No. 2425.]

AMERICAN EMBASSY,
London, October 29, 1915.

SIR: Referring to my cablegram No. 3104 of October 28,¹ quoting the text of the Order in Council dated October 20, 1915, in which Article 57 of the Declaration of London is abrogated, I now have the honor to in-

¹ Not printed.

close herewith 7 copies of the Second Supplement to the London Gazette of Friday, the 22nd of October, 1915, for the information of the Department.

I have, etc.,

WALTER HINES PAGE.

[Inclosure.]

[Numb. 29338. 10491. Second Supplement to The London Gazette of Friday, the 22nd of October, 1915.]

ORDER IN COUNCIL.

At the Court at Buckingham Palace, the 20th day of October, 1915.
Present, the King's Most Excellent Majesty in Council.

Whereas by the Declaration of London Order in Council No. 2, 1914, His Majesty was pleased to declare that, during the present hostilities, the provisions of the said Declaration of London should, subject to certain exceptions and modifications therein specified, be adopted and put in force by His Majesty's Government; and

Whereas, by Article 57 of the said Declaration, it is provided that the neutral or enemy character of a vessel is determined by the flag which she is entitled to fly; and

Whereas it is no longer expedient to adopt the said Article:

Now, therefore, His Majesty, by and with the advice of His Privy Council, is pleased to order, and it is hereby ordered, that from and after this date Article 57 of the Declaration of London shall cease to be adopted and put in force.

In lieu of the said Article, British Prize Courts shall apply the rules and principles formerly observed in such Courts.

This Order may be cited as "The Declaration of London Order in Council, 1915."

And the Lords Commissioners of His Majesty's Treasury, the Lords Commissioners of the Admiralty, and each of His Majesty's Principal Secretaries of State, the President of the Probate, Divorce, and Admiralty Division of the High Court of Justice, all other Judges of His Majesty's Prize Courts, and all Governors, Officers, and Authorities whom it may concern, are to give the necessary directions herein as to them may respectively appertain.

J. C. LEDLIE.

Consul General Skinner to the Secretary of State.

AMERICAN CONSULATE GENERAL,
London, March 31, 1916.

Order in Council, March thirtieth, proclaims important modifications to declaration of London Order in Council Number Two, of October twenty-ninth, 1914, providing:

First. British possess right to capture goods as conditional contraband whether carriage to destination "be direct or entail transshipment or a subsequent transport by land."

Second. Presumption of enemy destination if goods are consigned to agent of enemy state, or to order, or if ship's papers do not show who is consignee applies to both absolute contraband and conditional contraband.

Third. Enemy destination presumed to exist if goods are consigned "To or from a person who during the present hostilities has forwarded imported contraband goods to territory belonging to or occupied by the enemy."

Fourth. In cases covered by Second and Third regulations it shall lie upon the owner of the goods to prove innocent destination.

Fifth. And from after March thirtieth Article Nineteen Declaration London ceases to be in force, neither vessel nor cargo shall be immune from capture for breach of blockade upon sole ground that she is destined to non-blockaded port.

SKINNER.

Consul General Skinner to the Secretary of State.

No. 1545.]

AMERICAN CONSULATE GENERAL,
London, April 3, 1916.

SIR: Referring to my telegram of March 31, 1916, reporting briefly the provisions of an Order in Council modifying the Declaration of London Order in Council No. 2, 1914, I have the honor to enclose herewith the official text of the Order in question which appeared in a special number of the London Gazette of March 30, 1916.

I am, etc.,

ROBERT SKINNER.

[Inclosure.]

ORDER IN COUNCIL.

At the Court at Buckingham Palace, the 30th day of March, 1916.
Present, the King's Most Excellent Majesty in Council.

Whereas by the Declaration of London Order in Council No. 2, 1914, His Majesty was pleased to direct that during the present hostilities the provisions of the convention known as the Declaration of London should, subject to certain omissions and modifications therein set out, be adopted and put in force by His Majesty's Government; and

Whereas doubts have arisen as to the effect of Article 1 (iii) of the said Order in Council on the right to effect the capture of conditional contraband on board a vessel bound for a neutral port; and

Whereas it is expedient to put an end to such doubts and otherwise to amend the said Order in Council in the manner hereinafter appearing; and

Whereas by Article 19 of the said Declaration it is provided that whatever may be the ulterior destination of a vessel or of her cargo she can not be captured for breach of blockade if at the moment she is on her way to a nonblockaded port; and

Whereas it is no longer expedient to adopt Article 19 of the said Declaration;

Now, therefore, His Majesty, by and with the advice of his Privy Council, is pleased to order, and it is hereby ordered as follows:

1. The provisions of the Declaration of London Order in Council No. 2, 1914, shall not be deemed to limit or to have limited in any way the right of His Majesty, in accordance with the law of nations, to capture goods upon the grounds that they were conditional contraband, nor to affect or to have affected the liability of conditional contraband to capture, whether the carriage of the goods to their destination be direct or entail transshipment or a subsequent transport by land.

2. The provisions of Article 1 (ii) and (iii) of the said Order in Council shall apply to absolute contraband as well as to conditional contraband.

3. The destinations referred to in Article 30 and in Article 33 of the said Declaration shall (in addition to any presumptions laid down in the said Order in Council) be presumed to exist, if the goods are consigned to or for a person who, during the present hostilities, has forwarded imported contraband goods to territory belonging to or occupied by the enemy.

4. In the cases covered by Articles 2 and 3 of this Order, it shall lie upon the owner of the goods to prove that their destination was innocent.

5. From and after the date of this Order, Article 19 of the Declaration of London shall cease to be adopted and put in force. Neither a vessel nor her cargo shall be immune from capture for breach of blockade upon the sole grounds that she is at the moment on her way to a nonblockaded port.

6. This order may be cited as "The Declaration of London Order in Council, 1916."

And the Lords Commissioners of His Majesty's Treasury, the Lords Commissioners of the Admiralty, and each of His Majesty's Principal Secretaries of State, the President of the Probate, Divorce, and Admiralty Division of the High Court of Justice, all other Judges of His Majesty's Prize Courts, and all Governors, Officers, and Authorities whom it may concern, are to give the necessary directions herein as to them may respectively appertain.

ALMERIC FITZROY.

Ambassador W. H. Page to the Secretary of State.

No. 4181.]

AMERICAN EMBASSY,

London, July 10, 1916.

SIR: I have the honor to inclose herewith, for the information of the Department, a copy, in duplicate, of the text of an Order in Council dated the 7th instant, which has been received from the Foreign Office, called "The Maritime Rights Order in Council, 1916," which effects a change in the rules hitherto adopted by the British Government to govern their conduct of warfare at sea during the present hostilities.

There is also transmitted herewith a copy, in duplicate, of a memorandum which has been drawn up by the British and French Governments explaining the grounds for the issue of the aforementioned Order in Council.

I have, etc.,

WALTER HINES PAGE.

[Inclosure 1.]

ORDER IN COUNCIL.

At the Court at Buckingham Palace, the 7th day of July, 1916. Present, the King's Most Excellent Majesty in Council.

Whereas by an Order in Council, dated the 20th day of August, 1914,

His Majesty was pleased to declare that during the present hostilities the provisions of the Declaration of London should, subject to certain additions and modifications therein specified, be adopted and put in force by His Majesty's Government:

And whereas the said Declaration was adopted as aforementioned in common with His Majesty's allies:

And whereas it has been necessary for His Majesty and for his allies from time to time to issue further enactments modifying the application of the articles of the said declaration:

And whereas Orders in Council for this purpose have been issued by His Majesty on the 29th day of October, 1914, the 20th day of October, 1915, and the 30th day of March, 1916:

And whereas the issue of these successive Orders in Council may have given rise to some doubt as to the intention of His Majesty, as also as to that of his allies, to act in strict accordance with the law of nations, and it is therefore expedient to withdraw the said orders so far as they are now in force:

Now, therefore, His Majesty, by and with the advice of His Privy Council, is pleased to order, and it is hereby ordered, that the Declaration of London Order in Council No. 2, 1914, and all orders subsequent thereto amending the said order are hereby withdrawn;

And His Majesty is pleased further to declare, by and with the advice of His Privy Council, and it is hereby declared, that it is and always has been his intention, as it is and has been that of his allies, to exercise their belligerent rights at sea in strict accordance with the law of nations;

And whereas on account of the changed conditions of commerce and the diversity of practice doubts might arise in certain matters as to the rules which His Majesty and his allies regard as being in conformity with the law of nations, and it is expedient to deal with such matters specifically;

It is hereby ordered that the following provisions shall be observed:

(a) The hostile destination required for the condemnation of contraband articles shall be presumed to exist, until the contrary is shown, if the goods are consigned to or for an enemy authority, or an agent of the enemy State, or to or for a person in territory belonging to or occupied by the enemy, or to or for a person who, during the present hostilities, has forwarded contraband goods to an enemy authority, or an agent of the enemy State, or to or for a person in territory belonging to or occupied by the enemy, or if the goods are consigned "to order," or if the ship's papers do not show who is the real consignee of the goods.

(b) The principle of continuous voyage or ultimate destination shall be applicable both in cases of contraband and of blockade.

(c) A neutral vessel carrying contraband with papers indicating a neutral destination, which, notwithstanding the destination shown on the papers, proceeds to an enemy port, shall be liable to capture and condemnation if she is encountered before the end of her next voyage.

(d) A vessel carrying contraband shall be liable to capture and condemnation if the contraband, reckoned either by value, weight, volume, or freight, forms more than half the cargo.

And it is hereby further ordered as follows:

(i) Nothing herein shall be deemed to affect the Order in Council of the 11th March, 1915, for restricting further the commerce of the enemy or any of His Majesty's Proclamations declaring articles to be contraband of war during the present hostilities.

(ii) Nothing herein shall affect the validity of anything done under the Orders in Council hereby withdrawn.

(iii) Any cause or proceeding commenced in any prize court before the making of this order may, if the court thinks just, be heard and decided under the provisions of the orders hereby withdrawn so far as they were in force at the date when such cause or proceeding was commenced, or would have been applicable in such cause or proceeding if this order had not been made.

This order may be cited as "The Maritime Rights Order in Council, 1916."

And the Lords Commissioners of His Majesty's Treasury, the Lords Commissioners of the Admiralty, and each of His Majesty's Principal Secretaries of State, the President of the Probate, Divorce, and Admiralty Division of the High Court of Justice, all other judges of His Majesty's prize courts, and all governors, officers, and authorities whom it may concern, are to give the necessary directions herein as to them may respectively appertain.

ALMERIC FITZROY.

[Inclosure 2.]

MEMORANDUM.

At the beginning of the present war the allied Governments, in their anxiety to regulate their conduct by the principles of the law of nations, believed that in the Declaration of London they would find a suitable

digest of principles and compendium of working rules. They accordingly decided to adopt the provisions of the declaration, not as in itself possessing for them the force of law, but because it seemed to present in its main lines a statement of the rights and the duties of belligerents based on the experience of previous naval wars. As the present struggle developed, acquiring a range and character beyond all previous conceptions, it became clear that the attempt made at London in time of peace to determine not only the principles of law, but even the forms under which they were to be applied, had not produced a wholly satisfactory result. As a matter of fact these rules, while not in all respects improving the safeguards afforded to neutrals, do not provide belligerents with the most effective means of exercising their admitted rights.

As events progressed, the Germanic Powers put forth all their ingenuity to relax the pressure tightening about them and to reopen a channel for supplies; their devices compromised innocent neutral commerce and involved it in suspicions of enemy agency. Moreover, the manifold developments of naval and military science, the invention of new engines of war, the concentration by the Germanic Powers of the whole body of their resources on military ends, produced conditions altogether different from those prevailing in previous naval wars.

The rules laid down in the Declaration of London could not stand the strain imposed by the test of rapidly changing conditions and tendencies which could not have been foreseen.

The allied Governments were forced to recognize the situation thus created, and to adapt the rules of the declaration from time to time to meet these changing conditions.

These successive modifications may perhaps have exposed the purpose of the allies to misconstruction; they have therefore come to the conclusion that they must confine themselves simply to applying the historic and admitted rules of the law of nations.

The allies solemnly and unreservedly declare that the action of their warships, no less than the judgments of their prize courts, will continue to conform to these principles; that they will faithfully fulfil their engagements, and in particular will observe the terms of all international conventions regarding the laws of war; that mindful of the dictates of humanity, they repudiate utterly all thought of threatening the lives of non-combatants; that they will not without cause interfere with neutral property; and that if they should, by the action of their fleets, cause damage to the interests of any merchant acting in good faith, they will

always be ready to consider his claims and to grant him such redress as may be due.

FOREIGN OFFICE,
July 7, 1916.

Ambassador Sharp to the Secretary of State.

No. 3392.]

AMERICAN EMBASSY,
Paris, July 11, 1916.

SIR: In confirmation of my telegrams Nos. 1479, 1480, of July 8, 1916,¹ relating to a memorandum and decree published in the *Journal Officiel* of July 8, 1916, stating that the French and British Governments would no longer be governed by the rules of the Declaration of London in maritime warfare, I have the honor to inclose herewith, in copy and translation, the complete text of the memorandum and decree as it appeared in the *Journal Officiel*. The memorandum merely gives the reasons of the allies for abandoning the Declaration of London, while the decree specifies the conditions under which ships carrying merchandise of a contraband nature will henceforth be liable to capture.

I may add that the memorandum was sent to me by the minister for foreign affairs, with the request that it be transmitted to the Government of the United States.

I have, etc.,

For the Ambassador:

ROBERT WOODS BLISS.

[Inclosure—Translation.]

REPORT TO THE PRESIDENT OF THE FRENCH REPUBLIC.

MR. PRESIDENT: By decree of August 25, 1914, later superseded by the decree of November 6, of the same year, the Government of the Republic, in agreement with its allies, made the rules of international maritime law, formulated by the declaration signed in London on February 26, 1909, and which remained without ratification, applicable.

Experience having, little by little, led to the conclusion that these

¹ Not printed.

rules were not susceptible of assuring for the belligerents the exercise of the rights accruing to them from the general principles of the law of nations, several modifications were successively made. Certain doubts and certain obscurity were the result of this. It seems opportune to eliminate them by suppressing entirely the application of the rules formulated at London and for us to observe the principles of international law such as they have been for a long time consecrated by French legislation as well as by the treaties in force and whose application is assured by naval instructions concerning international law in time of war, published in the Official Bulletin of Marine of January 30, 1916.

The same point of view has been adopted by our allies and appropriate measures have been taken by them to maintain in this, as well as in other matters, unity of action and uniformity of practice in the conduct of hostilities.

It is under these conditions and with this spirit that the memorandum hereto annexed, addressed by the allied Governments to the neutral Governments, is conceived.

According to our regulation (rule of July 26, 1778, Art. I), ships carrying contraband are not susceptible of confiscation unless the merchandise forms more than three-fourths of the value of the entire cargo; but this restriction is subordinated to an identical practice on the part of the enemy. The Governments of Germany and Austria-Hungary prescribe confiscation when contraband merchandise forms, either by its value, or by its weight, or by its bulk, or by its burden, more than one-half the cargo. There is, therefore, reason to follow an analogous rule, which our allies propose to observe likewise.

On the other hand, our regulation above mentioned (Art. I), clearly states the principle according to which contraband merchandise may be seized when it is intended for the enemy and, in this respect, this text makes no restriction or limitation and no distinction between cases where the hostile destination of the merchandise is direct or indirect, manifest or dissimulated.

The adoption of the rules of the Declaration of London had to be accompanied in the decrees of application by certain dispositions intended to exclude restrictions or to complete the stipulations which the Declaration of London had consecrated as a conventional transaction between contracting powers. Although liability to seizure of contraband merchandise, in case of hostile destination indirect and dissimulated had been elucidated by jurisprudence (prize courts, May 26, 1855, the case of

the *Vrouw-Houwina*) the fear was expressed that the abrogation of these decrees might give rise to doubts and it has seemed necessary to recall certain circumstances from which, if they are established, one is entitled to deduct, in default of proof to the contrary, the hostile destination of a contraband cargo.

If these different considerations seem to you justified, we beg of you to sign the project of the following decree.

With the assurance, etc.,

*The President of the Council,
Minister for Foreign Affairs:*
ARISTIDE BRIAND.

Minister of War:

ROQUES.

Minister of Marine:

LACAZE.

Minister of Colonies:

GASTON DOUMERGUE.

DECREE.

The President of the French Republic, on the report of the President of the Council, Minister for Foreign Affairs, of the Ministers of War, Marine, and Colonies,

In view of the decrees of November 6, 1914, of October 23, 1915, and of April 12, 1916;

In view of the maritime decree of August, 1681, Book III, title 9, the regulation of July 26, 1778, the decree of the consuls of 29 Frimaire, An VIII;

In view of the Declaration of Paris of April 16, 1856, and the Conventions signed at The Hague on October 18, 1907;

Decrees:

ARTICLE 1. The decree of November 6, 1914, making applicable with certain modifications and additions the rules formulated by the Declaration of London of February 26, 1909, concerning the law of maritime warfare, as well as the decrees of October 23, 1915, and of April 12, 1916, adding new modifications to the said rules, are hereby repealed.

ART. 2. Whenever contraband merchandise seized on a ship forms by its value, its weight, its volume, or its burden more than one-half of the cargo, the ship and its entire cargo are subject to confiscation.

ART. 3. If the documents accompanying a cargo constituting by its nature contraband of war and found on board a ship bound for a country bordering the enemy countries or a country occupied by the enemy do not specify the final and definitive destination of the said cargo in a neutral country, or if the importation into the said neutral country of the articles composing the cargo is out of proportion to normal importation, implying an ulterior hostile destination, the said cargo shall be subject to capture unless the interested parties can prove that the destination was really innocent.

ART. 4. The President of the Council, Minister for Foreign Affairs, the Ministers of War, Marine, and Colonies, are charged, each within his own province, with the execution of the present decree.

Done in Paris on July 7, 1916.

R. POINCARÉ.

By the President of the Republic:

The President of the Council:

Minister for Foreign Affairs:

A. BRIAND.

The Minister of War:

ROQUES.

The Minister of Marine:

LACAZE.

The Minister of Colonies:

GASTON DOUMERGUE.

MEMORANDUM.

Our allied Governments, striving to conform their conduct to the principles of international law, thought, at the beginning of the present war, that they would find in the Declaration of London a doctrine and a collection of practical rules. They consequently decided to adopt its stipulations, not because it had in itself the force of law with regard to them, but because it seemed to present, in its general scope, an exposition of the rights and duties of belligerents reposing upon the experience of maritime wars of the past. The development of the present struggle of an unsuspected magnitude and character has demonstrated that the efforts made in London to determine, in time of peace, not only the principles of right, but also the methods of their application, had not led to an entirely satisfactory result. These rules, in fact, without always

conferring upon neutrals broader guaranties, do not give to the belligerents the most efficacious means for exercising the rights which are recognized to be theirs.

Keeping pace with the march of events, the belligerents of the Germanic group have redoubled their efforts to ease the pressure which encircles them and to open the channel of reprovisioning; their subterfuges compromised the inoffensive trade of neutrals and laid it open to the suspicion of hostile intention. On the other hand, the progress of all kinds accomplished in the military and naval art, the creation of new weapons, the centralization by the Germanic belligerents of their entire resources for military purposes, created conditions very different from those of the naval wars of the past.

The application of the rules of the Declaration of London could not stand the test of the ceaseless and unforeseen evolution of events.

The allied Governments were forced to recognize this situation and to add, from time to time, to the rules of the Declaration compromises to keep pace with this evolution.

These successive changes may have rendered the intentions of the allies liable to false intrepertation; therefore it seemed necessary for them to restrict themselves solely to the application of the rules of international law as formerly recognized.

The allies solemnly and unreservedly declare that they will continue to observe these principles as well in the action of their cruisers as in the judgments of their prize courts; that true to their pledge they will conform themselves notably to the dispositions of international conventions regarding the laws of war; that respectful of law and of humanity they reject the idea of menacing the existence of noncombatants; that they will not make any unjustified assault upon the property of neutrals, and that in case damages be caused by their naval action to bona fide merchants, they will always be prepared to investigate the claims and to make due reparation.

PARIS, *July 7, 1916.*

PART II.

CONTRABAND OF WAR.

(Continuation of correspondence printed in Special Supplement, July, 1915, pp. 9-54.)

Ambassador W. H. Page to the Secretary of State.

No. 1512.]

AMERICAN EMBASSY,
London, May 29, 1915.

SIR: Referring to my cablegram No. 2188 of to-day's date,¹ I have the honor to inclose herewith to the Department copies, in duplicate, of the Proclamation of May 27th, 1915, giving additions and amendments to the List of Articles to be treated as Contraband of War.

I have, etc.,

WALTER HINES PAGE.

[Inclosure.]

PROCLAMATION MAKING CERTAIN FURTHER ADDITIONS TO AND AMENDMENTS IN THE LIST OF ARTICLES TO BE TREATED AS CONTRABAND OF WAR.

GEORGE R. I.

Whereas on the twenty-third day of December, 1914, We did issue Our Royal Proclamation specifying the articles which it was Our intention to treat as contraband during the continuance of hostilities or until We did give further public notice; and

Whereas on the eleventh day of March, 1915, We did, by Our Royal Proclamation of that date, make certain additions to the list of articles to be treated as contraband of war; and

Whereas it is expedient to make certain further additions to and amendments in the said list:

Now, therefore, We do hereby declare, by and with the advice of Our Privy Council, that during the continuance of the war, or until We do give further public notice, the following articles will be treated as

¹ Not printed.

absolute contraband in addition to those set out in Our Royal Proclamations aforementioned:

Toluol, and mixtures of toluol, whether derived from coal tar, petroleum, or any other source.

Lathes and other machines or machine tools capable of being employed in the manufacture of munitions of war.

Maps and plans of any place within the territory of any belligerent, or within the area of military operations, on a scale of four miles to one inch, or on any larger scale, and reproductions on any scale by photography or otherwise of such maps or plans.

And We do hereby further declare that item 4 of Schedule I of Our Royal Proclamation of the twenty-third day of December aforementioned shall be amended as from this date by the omission of the words "and all other metallic acetates" after the words "calcium acetate."

And We do hereby further declare that in Our Royal Proclamation of the eleventh day of March aforementioned the words "other than linseed oil" shall be deleted and that the following article will as from this date be treated as conditional contraband:

Linseed oil.

Given at Our Court at Buckingham Palace this Twenty-seventh day of May, in the year of our Lord one thousand nine hundred and fifteen, and in the Sixth year of Our Reign.

Ambassador W. H. Page to the Secretary of State.

[Telegram.]

AMERICAN EMBASSY,
London, August 24, 1915.

Following is text of royal proclamation placing cotton and cotton products in list of absolute contraband which has been received this morning, enclosed in a communication from Foreign Office, dated August twenty-third:

Whereas on the twenty-third day of December, 1914, we did issue our royal proclamation specifying the articles which it was our intention to treat as contraband during the continuance of hostilities or until we did give further notice;

Whereas on the eleventh day of March and on the twenty-seventh day of May, 1915, we did, by our royal proclamations of those dates, make certain additions to the list of articles to be treated as contraband of war;

Whereas it is expedient to make certain further additions to the said lists;

Now, therefore, we do hereby declare, by and with the advice of our privy council, that during the continuance of the war, or until we do give further public notice, the following articles will be treated as absolute contraband in addition to those set out in our royal proclamation aforementioned:

Raw cotton, cotton linters, cotton waste, and cotton yarns. And we do hereby further declare that this our royal proclamation shall take effect from the date of its publication in the London Gazette. Given at our court at the royal pavilion, Aldershot Camp, this twentieth day of August, in the year of our Lord one thousand nine hundred and fifteen, and in the sixth year of our reign.

PAGE.

Ambassador W. H. Page to the Secretary of State.

No. 2365.]

AMERICAN EMBASSY,
London, October 18, 1915.

SIR: Adverting to my cablegram No. 3015 of October 15,¹ giving the text of a Proclamation dated October 14, revising the List of Articles to be treated as Contraband of War, I now have the honor to enclose herewith to the Department 7 copies of the above-mentioned Proclamation.

I have, etc.,

WALTER HINES PAGE.

[Inclosure.]

PROCLAMATION REVISING THE LIST OF ARTICLES TO BE TREATED AS CONTRABAND OF WAR.

GEORGE R. I.

Whereas on the 23d day of December, 1914, we did issue Our Royal Proclamation specifying the articles which it was our intention to treat

¹ Not printed.

as contraband during the continuance of hostilities or until we did give further public notice; and

Whereas on the 11th day of March, and on the 27th day of May, and on the 20th day of August, 1915, we did, by Our Royal Proclamations of those dates, make certain additions to the lists of articles to be treated as contraband of war; and

Whereas it is expedient to make certain further additions to and amendments in the said lists:

Now, therefore, we do hereby declare, by and with the advice of our Privy Council, that the lists of contraband contained in the schedules to Our Royal Proclamation of the 23d day of December, as subsequently amended by our Proclamations of the 11th day of March, and of the 27th day of May, and of the 20th day of August aforementioned, are hereby withdrawn, and that in lieu thereof, during the continuance of the war or until we do give further public notice, the articles enumerated in Schedule I hereto will be treated as absolute contraband, and the articles enumerated in Schedule II hereto will be treated as conditional contraband.

Schedule I.

1. Arms of all kinds, including arms for sporting purposes, and their component parts.

2. Implements and apparatus designed exclusively for the manufacture of munitions of war, or for the manufacture or repair of arms or of war material for use on land or sea.

3. Lathes and other machines or machine tools capable of being employed in the manufacture of munitions of war.

4. Emery, corundum, natural and artificial (alundum), and carborundum, in all forms.

5. Projectiles, charges, and cartridges of all kinds, and their component parts.

6. Paraffin wax.

7. Powder and explosives specially prepared for use in war.

8. Materials used in the manufacture of explosives, including: Nitric acid and nitrates of all kinds; sulphuric acid; fuming sulphuric acid (oleum); acetic acid and acetates; barium chlorate and perchlorate; calcium acetate, nitrate and carbide; potassium salts and caustic potash; ammonium salts and ammonia liquor; caustic soda, sodium chlorate and perchlorate; mercury; benzol, toluol, xylol, solvent naphtha, phenol

(carbolic acid), cresol, naphthalene, and their mixtures and derivatives; aniline and its derivatives; glycerine; acetone; acetic ether; ethyl alcohol; methyl alcohol; ether; sulphur; urea; cyanamide; celluloid.

9. Manganese dioxide, hydrochloric acid, bromine, phosphorus, carbon disulphide, arsenic and its compounds, chlorine, phosgene (carbonyl chloride), sulphur dioxide, prussiate of soda, sodium cyanide, iodine and its compounds.

10. Capsicum and peppers.

11. Gun mountings, limber boxes, limbers, military wagons, field forges and their component parts, articles of camp equipment and their component parts.

12. Barbed wire and the implements for fixing and cutting the same.

13. Range finders and their component parts, search-lights and their component parts.

14. Clothing and equipment of a distinctively military character.

15. Saddle, draught, and pack animals suitable or which may become suitable for use in war.

16. All kinds of harness of a distinctively military character.

17. Hides of cattle, buffaloes, and horses; skins of calves, pigs, sheep, goats, and deer; and leather, undressed or dressed, suitable for saddlery, harness, military boots or military clothing; leather belting, hydraulic leather, and pump leather.

18. Tanning substances of all kinds, including quebracho wood and extracts for use in tanning.

19. Wool, raw, combed, or carded; wool waste; wool tops and noils; woolen and worsted yarns; animal hair of all kinds, and tops, noils, and yarns of animal hair.

20. Raw cotton, linters, cotton waste, cotton yarns, cotton piece goods, and other cotton products capable of being used in the manufacture of explosives.

21. Flax, hemp, ramie, kapok.

22. Warships, including boats and their component parts of such a nature that they can only be used on a vessel of war.

23. Submarine sound-signaling apparatus.

24. Armor plates.

25. Aircraft of all kinds, including aeroplanes, airships, balloons, and their component parts, together with accessories and articles suitable for use in connection with aircraft.

26. Motor vehicles of all kinds and their component parts.

27. Tires for motor vehicles and for cycles, together with articles or materials especially adapted for use in the manufacture or repair of tires.

28. Mineral oils, including benzine and motor spirit.

29. Resinous products, camphor, and turpentine (oil and spirit); wood tar and wood-tar oil.

30. Rubber (including raw, waste, and reclaimed rubber, solutions and jellies containing rubber, or any other preparations containing rubber, balata, and guttapercha and the following varieties of rubber, viz.: Borneo, Guayule, Jelutong, Palembang, Pontianac, and all other substances containing caoutchouc), and goods made wholly or partly of rubber.

31. Rattans.

32. Lubricants.

33. The following metals: Tungsten, molybdenum, vanadium, sodium, nickel, selenium, cobalt, hæmatite pig iron, manganese, electrolytic iron, and steel containing tungsten or molybdenum.

34. Asbestos.

35. Aluminium, alumina, and salts of aluminium.

36. Antimony, together with the sulphides and oxides of antimony.

37. Copper, unwrought and part wrought; copper wire; alloys and compounds of copper.

38. Lead, pig, sheet, or pipe.

39. Tin, chloride of tin, and tin ore.

40. Ferro alloys, including ferrotungsten, ferromolybdenum, ferromanganese, ferrovanadium, and ferrochrome.

41. The following ores: Wolframite, scheelite, molybdenite, manganese ore, nickel ore, chrome ore, hæmatite iron ore, iron pyrites, copper pyrites and other copper ores, zinc ore, lead ore, arsenical ore, and bauxite.

42. Maps and plans of any place within the territory of any belligerent, or within the area of military operations, on a scale of 4 miles to 1 inch or any larger scale, and reproductions on any scale, by photography or otherwise, of such maps or plans.

Schedule II.

1. Foodstuffs.

2. Forage and feeding stuffs for animals.

3. Oleaginous seeds, nuts, and kernels.

4. Animals, fish, and vegetable oils and fats, other than those capable of use as lubricants, and not including essential oils.

5. Fuel, other than mineral oils.
6. Powder and explosives not specially prepared for use in war.
7. Horseshoes and shoeing materials.
8. Harness and saddlery.
9. The following articles, if suitable for use in war: Clothing, fabrics for clothing, skins and furs utilizable for clothing, boots and shoes.
10. Vehicles of all kinds, other than motor vehicles, available for use in war, and their component parts.
11. Railway materials, both fixed and rolling stock, and materials for telegraphs, wireless telegraphs, and telephones.
12. Vessels, craft, and boats of all kinds; floating docks and their component parts; parts of docks.
13. Field glasses, telescopes, chronometers, and all kinds of nautical instruments.
14. Gold and silver in coin or bullion, paper money.

Given at Our Court at Buckingham Palace, this fourteenth day of October, in the year of our Lord one thousand nine hundred and fifteen, and in the sixth year of Our Reign.

Ambassador W. H. Page to the Secretary of State.

No. 2604.]

AMERICAN EMBASSY,
London, Nov. 30, 1915.

SIR: I have the honor to transmit herewith, for the information of the Department, six (6) copies of a List of Contraband, revised and brought up to November 5th, 1915, showing the date when each article was declared absolute or conditional contraband, and which has just been published.

I have, etc.,

WALTER HINES PAGE.

[Inclosure.]

LIST OF CONTRABAND (SECOND EDITION), REVISED AND BROUGHT UP TO NOVEMBER 5, 1915, SHOWING THE DATE WHEN EACH ARTICLE WAS DECLARED ABSOLUTE OR CONDITIONAL CONTRABAND.

PREFACE.

This list of Contraband is an alphabetical index of all the articles specified in the various Proclamations to be treated as Contraband

of War. Absolute and Conditional Contraband are indexed separately.

The date when each article was first declared contraband is given in Column D; the date when any article has been varied in description, withdrawn, or changed from Conditional to Absolute Contraband is shown in Column C, and the date of the Proclamation under which any article is now contraband is shown in Column F.

Every article is fully indexed in Column B; many therefore appear in more than one place, e. g., "Hæmatite iron ore" is indexed under "H," "I," and "O." The name of an article in Column B is printed in italics if it has been withdrawn, or if it is not specifically mentioned in a later Proclamation, but is included under some general heading, e. g., "Castor oil" under "Lubricants," or if its description has been varied.

In the Proclamations of August 4, October 29, December 23, 1914, and October 14, 1915, Absolute Contraband and Conditional Contraband are shown in separate schedules numbered I and II, which are divided into paragraphs. The number of the paragraph of these schedules in which an article was first included and the number of the paragraph in which it is now included are given in Columns E and G, respectively.

A summary of the Proclamations is given below.

Proclamations.

Date.	Official number. ¹		Date when Published in London Gazette.
1914.			1914.
I Aug. 4	1914, No. 1250 ²	Proclamation specifying articles to be treated as Absolute or Conditional Contraband of War.	Aug. 5 (1st supplement to Gazette of Aug. 4).
II Aug. 20	1914, No. 1260 ²	The " <i>Declaration of London Order in Council, 1914</i> ," adopting the provisions of the said Declaration with additions and modifications and substituting the lists of Absolute and Conditional Contraband in (I) for the	Aug. 22 (1st supplement to Gazette of Aug. 21).

¹ A Statutory Rule or Order may be cited by the Number (e. g., 1914, No. 1250) which follows such Statutory Rule or Order.

² Printed in Special Supplement, July, 1915, p. 9.

³ *Ibid.*, p. 4.

Proclamations—Continued.

Date.	Official number.		Date when Published in London Gazette.
III Sept. 21	1914, No. 1410 ⁴	lists in articles 22 and 24 of the said Declaration. Proclamation adding to Conditional Contraband in (I).	Sept. 21 (2nd supplement to Gazette of Sept. 18).
IV Oct. 29	1914, No. 1613 ⁵	Proclamation substituting new lists for those in (I) and (III), which are consolidated, with the following alterations: (a) Amending certain articles of Conditional Contraband; (b) altering certain articles from Conditional to Absolute Contraband; and (c) adding to Absolute and Conditional Contraband.	Oct. 29 (2nd supplement to Gazette of Oct. 27).
V Dec. 23	1914, No. 1775 ⁶	Proclamation substituting new lists for those in (IV), which are incorporated, with the following alterations: (a) Amending certain articles of Absolute Contraband; (b) altering certain articles from Conditional to Absolute Contraband; and (c) adding to Absolute Contraband.	Dec. 23 (1st supplement to Gazette of Dec. 22).
1915. IV Mar. 11	1915, No. 205 ⁷	Proclamation adding to Absolute and Conditional Contraband in (V).	1915. Mar. 12 (3rd supplement to Gazette of Mar. 9).
VII May 27	1915, No. 507 ⁸	Proclamation adding to, and amending certain items of, Absolute and Conditional Contraband in (V) and (VI).	May 27 (2nd supplement to Gazette of May 25).
VIII Aug. 20	1915, No. 801 ⁹	Proclamation adding certain forms of Cotton to Absolute Contraband in (V), (VI), and (VII).	Aug. 21 (2nd supplement to Gazette of Aug. 20).

⁴ Printed in Special Supplement, July, 1915, p. 11.⁵ *Ibid.*, p. 16.⁷ *Ibid.*, p. 20.⁸ Printed *supra*, p. 14.⁶ *Ibid.*, p. 12.⁹ Printed *supra*, p. 15.

Proclamations—Continued.

Date.	Official number.		Date when Published in London Gazette.
IX Oct. 14	1915, No. 994 ¹⁰	Proclamation substituting new lists for those in (V), (VI), (VII), and (VIII), which are consolidated, with the following alterations: (a) Amending certain articles of Absolute and Conditional Contraband; (b) altering certain articles from Conditional to Absolute Contraband, and (c) adding to Absolute and Conditional Contraband.	Oct. 14 (4th supplement to Gazette of Oct. 12).

Absolute Contraband.

[List compiled to Nov. 5, 1915.]

NOTE.—Articles printed in *italics* have been varied or withdrawn by later Proclamations.

A.	B.	C.	D.	E.	F.	G.
Number of Article in this List.	Article.	References and Notes.	Date of the Proclamation first declaring Article Absolute Contraband.	Number of paragraph of Schedule I in Proclamation in Column D.	Date of Proclamation under which Article is now Absolute Contraband.	Number of paragraph of Schedule I in Proclamation in Column F.
1	Acetate, calcium, and all other metallic acetates.	<i>Words in italics omitted May 27 1915. See also No. 2.</i>	Dec. 23, 1914	4	Oct. 14, 1915	8
2	Acetates.....	.....	Oct. 14, 1915	8	.....do.....	8
3	Acetic acid.....	.....	Oct. 14, 1915	8	.....do.....	8
4	Acetic ether.....	.....	Oct. 14, 1915	8	.....do.....	8
5	Acetone.....	.....	Dec. 23, 1914	4	.....do.....	8
6	Acids:	.....	.....	.....	.....	.....
7	Acetic.....	.....	Oct. 14, 1915	8	.....do.....	8
8	Carbolic (phenol) and its mixtures and derivatives.	See No. 65	Oct. 14, 1915	8	.....do.....	8
9	Fuming sulphuric (oleum)	.....	Oct. 14, 1915	8	.....do.....	8
10	Hydrochloric ..	.....	Oct. 14, 1915	9	.....do.....	9
11	Nitric.....	.....	Dec. 23, 1914	4	.....do.....	8

¹⁰ Printed *supra*, p. 16.

Absolute Contraband—Continued.

A.	B.	C.	D.	E.	F.	G.
Number of Article in this List.	Article.	References and Notes.	Date of the Proclamation first declaring Article Absolute Contraband.	Number of paragraph of Schedule I in Proclamation in Column D.	Date of Proclamation under which Article is now Absolute Contraband.	Number of paragraph of Schedule I in Proclamation in Column F.
12	Sulphuric .....	.....	Oct. 29, 1914	4	.....do.....	8
13	Aeroplanes and their component parts, etc.	See No. 15	Aug. 4, 1914	11	.....do.....	25
14	<i>Aircraft of all kinds and their component parts, together with accessories and articles recognizable as intended for use in connection with balloons and aircraft.</i>	<i>See No. 15</i>	<i>Aug. 4, 1914</i>	<i>11</i>	<i>Oct. 14, 1915</i>	<i>25</i>
15	Aircraft of all kinds, including aeroplanes, airships, balloons and their component parts, together with accessories and articles suitable for use in connection with aircraft.	See No. 14	Oct. 14, 1915	25	.....do.....	25
16	Airships and their component parts, etc.	See No. 15.....	Aug. 4, 1914	11	.....do.....	25
17	Alcohol, ethyl.....	.....	Oct. 14, 1915	8	.....do.....	8
18	Alcohol, methyl.....	.....	Oct. 14, 1915	8	.....do.....	8
19	Alumina.....	.....	Dec. 23, 1914	16	.....do.....	35
20	Aluminium.....	.....	Oct. 29, 1914	18	.....do.....	35
21	Aluminium, salts of.	.....	Dec. 23, 1914	16	.....do.....	35
22	Alundum (corundum, natural and artificial, in all forms).	.....	Oct. 14, 1915	4	.....do.....	4
23	<i>Ammonia and its salts, whether simple or compound.</i>	<i>Varied Oct. 14, 1915. See Nos. 24 and 27.</i>	<i>Mar. 11, 1915</i>	.....	.....do.....	8
24	Ammonia liquor.....	.....	Mar. 11, 1915	.....	.....do.....	8
25	Ammonium nitrate	Included in "Nitrates," Oct. 14, 1915.	Dec. 23, 1914	4	.....do.....	8

Absolute Contraband—Continued.

A.	B.	C.	D.	E.	F.	G.
Number of Article in this List.	Article.	References and Notes.	Date of the Proclamation first declaring Article Absolute Contraband.	Number of paragraph of Schedule I in Proclamation in Column D.	Date of Proclamation under which Article is now Absolute Contraband.	Number of paragraph of Schedule I in Proclamation in Column F.
26	Ammonium perchlorate.	Included in No. 27, Oct. 14, 1915.	Dec. 23, 1914	4	.....do.....	8
27	Ammonium salts.	.....	Oct. 14, 1915	8	.....do.....	8
28	Aniline.....	See Nos. 29 and 30	Dec. 23, 1914	4	.....do.....	8
29	Aniline and its compounds.	See No. 30	Mar. 11, 1915	.....	.....	.....
30	Aniline and its derivatives.	.....	Oct. 14, 1915	8	Oct. 14, 1915	8
31	Animals, saddle, draft, and pack, suitable for use in war.	See No. 32	Aug. 4, 1914	7	.....do.....	15
32	Animals, saddle, draft, and pack, suitable, or which may become suitable, for use in war.	.....	Oct. 14, 1915	15	.....do.....	15
33	Animal hair of all kinds, and tops, noils and yarns of animal hair.	See "Wool"....	Oct. 14, 1915	19	.....do.....	19
34	Antimony, together with the sulphides and oxides of antimony.	.....	Dec. 23, 1914	17	.....do.....	36
35	Apparatus and implements designed exclusively for the manufacture of munitions of war, or for the manufacture or repair of arms or of war material for use on land or sea.	See also No. 151	Aug. 4, 1914	12	.....do.....	2
36	Apparatus, submarine sound-signaling.	.....	Dec. 23, 1914	22	.....do.....	23
37	Armor plates ....	.....	Aug. 4, 1914	9	.....do.....	24
38	Arms of all kinds, including arms for sporting purposes,	"Distinctive" omitted Oct. 14, 1915.	Aug. 4, 1914	1	.....do.....	1

Absolute Contraband—Continued.

A.	B.	C.	D.	E.	F.	G.
Number of Article in this List.	Article.	References and Notes.	Date of the Proclamation first declaring Article Absolute Contraband.	Number of paragraph of Schedule I in Proclamation in Column D.	Date of Proclamation under which Article is now Absolute Contraband.	Number of paragraph of Schedule I in Proclamation in Column F.
	and their <i>distinctive</i> component parts.					
39	Arms, implements and apparatus designed exclusively for the manufacture or repair of.	See No. 35	Aug. 4, 1914	12	.....do.....	2
40	Arsenic and its compounds.	.....	Oct. 14, 1915	9	.....do.....	9
41	Arsenical ore . . . .	.....	Oct. 14, 1915	41	.....do.....	41
42	Asbestos . . . . .	.....	Oct. 14, 1915	34	.....do.....	34
43	Balata, any preparations containing.	See "Rubber".	Oct. 14, 1915	30	.....do.....	30
44	Balloons and their component parts, etc.	See No. 15	Aug. 4, 1914	11	.....do.....	25
45	Barbed wire, and the implements for fixing and cutting the same.	.....	Oct. 29, 1914	20	.....do.....	12
46	Barium chlorate . . . . .	.....	Dec. 23, 1914	4	.....do.....	8
47	Barium perchlorate . . . . .	.....	Oct. 14, 1915	8	.....do.....	8
48	Bauxite . . . . .	.....	Dec. 23, 1914	15	.....do.....	41
49	Belting, leather . . . . .	.....	Oct. 14, 1915	17	.....do.....	17
50	Benzine . . . . .	.....	Oct. 14, 1915	28	.....do.....	28
51	Benzol	See Nos. 52, 84.	Dec. 23, 1914	4	.....do.....	8
52	Benzol and its mixtures and derivatives.	See No. 84	Oct. 14, 1915	8	.....do.....	8
53	Boats and their <i>distinctive</i> component parts of such a nature that they can only be used on a vessel of war.	See No. 283 "Distinctive" omitted Oct. 14, 1915.	Aug. 4, 1914	10	Oct. 14, 1915	22
54	Borneo rubber	See "Rubber".	Oct. 14, 1915	30	.....do.....	30
55	Bromine . . . . .	.....	Oct. 14, 1915	9	.....do.....	9
56	Buffaloes, hides of . . . . .	.....	Mar. 11, 1915	.....	.....do.....	17
57	Calcium acetate and all other <i>metallic acetates</i> .	Words in <i>italics</i> omitted May 27, 1915; " <i>acetates</i> " inserted Oct. 14, 1915.	Dec. 23, 1914	4	.....do.....	8

Absolute Contraband—Continued.

A.	B.	C.	D.	E.	F.	G.
Num- ber of Article in this List.	Article.	References and Notes.	Date of the Proclamation first declaring Article Absolute contraband.	Number of para- graph of Schedule I in Procla- mation in Col- umn D.	Date of Procla- mation under which Article is now Absolute Contraband.	Number of para- graph of Schedule I in Procla- mation in Col- umn F.
58	Calcium carbide .	.....	Oct. 14, 1915	8	.....do.....	8
59	Calcium nitrate..	.....	Dec. 23, 1914	4	.....do.....	8
60	Calves, skins of..	.....	Mar. 11, 1915	.....	.....do.....	17
61	Camp equipment, articles of, and their distinctive component parts.	"Distinctive" omitted Oct. 14, 1915.	Aug. 4, 1914	8	.....do.....	11
62	Camphor (oil and spirit).	.....	Dec. 23, 1914	5	.....do.....	29
63	Caoutchouc, all substances con- taining.	See "Rubber".	Oct. 14, 1915	30	.....do.....	30
64	Capsicum and peppers.	.....	Oct. 14, 1915	10	.....do.....	10
65	Carbolic acid (phenol and its mixtures and de- rivatives).	Included in "Coal tar prod- ucts," Dec. 23, 1914.	Oct. 14, 1915	8	.....do.....	8
66	Carbon disulphide	.....	Oct. 14, 1915	9	.....do.....	9
67	Carbonyl chloride (phosgene).	.....	Oct. 14, 1915	9	.....do.....	9
68	Carborundum, in all forms.	.....	Oct. 14, 1915	4	.....do.....	4
69	Cartridges of all kinds and their distinctive com- ponent parts.	"Distinctive" omitted Oct. 14, 1915.	Aug. 4, 1914	2	.....do.....	5
70	Castor oil	Included in "Lubricants," Oct. 14, 1915.	Mar. 11, 1915	.....	.....do.....	32
71	Cattle, hides of..	.....	Mar. 11, 1915	.....	.....do.....	17
72	Caustic potash...	.....	Oct. 14, 1915	8	.....do.....	8
73	Caustic soda ....	.....	Oct. 14, 1915	8	.....do.....	8
74	Celluloid .....	.....	Oct. 14, 1915	8	.....do.....	8
75	Charges of all kinds and their distinctive compo- nent parts.	"Distinctive" Omitted Oct. 14, 1915.	Aug. 4, 1914	2	.....do.....	5
76	Chlorate, barium.	.....	Dec. 23, 1914	4	.....do.....	8
77	Chlorate, potassium	Included in "Po- tassium salts," Oct. 14, 1915.	Dec. 23, 1914	4	.....do.....	8
78	Chlorate, sodium.	.....	Dec. 23, 1914	4	.....do.....	8
79	Chloride, carbonyl (phosgene).....	.....	Oct. 14, 1915	9	.....do.....	9

Absolute Contraband—Continued.

A. Number of Article in this List.	B. Article.	C. References and Notes.	D. Date of the Proclamation first declaring Article Absolute Contraband.	E. Number of para- graph of Schedule I in Procla- mation in Col- umn D.	F. Date of Procla- mation under which Article is now Absolute Contraband.	G. Number of para- graph of Schedule I in Procla- mation in Col- umn F.
80	Chloride of tin . . .	.....	Mar. 11, 1915	.....	.....do.....	39
81	Chlorine . . . . .	.....	Oct. 14, 1915	9	.....do.....	9
82	Chrome ore . . . .	.....	Oct. 29, 1914	15	.....do.....	41
83	Clothing of a dis- tinctively mili- tary character.	.....	Aug. 4, 1914	5	.....do.....	14
84	Coal tar, the frac- tions of the distil- lation products of, between benzol and cresol, inclusive.	See also No. 268. Varied Oct. 14, 1915, when cer- tain of the prod- ucts are speci- fied, viz: Benzol, toluol, xylool, solvent naph- tha, phenol (carbolic acid), cresol, naph- thalene, their mixtures and derivatives; an- iline and its de- rivatives.	Dec. 23, 1914	4	.....	.....
85	Coal tar, toluol, and mixtures of toluol derived from.	See Nos. 268 and 269. Varied Oct. 14, 1915.	May 27, 1915	.....	Oct. 14, 1915	8
86	Cobalt . . . . .	.....	Dec. 23, 1914	14	.....do.....	33
87	Copper, unwrought.	See No. 88 . . .	Oct. 29, 1914	16	.....do.....	37
88	Copper, unwrought and part wrought, and copper wire.	See No. 89 . . .	Dec. 23, 1914	18	Oct. 14, 1915	37
89	Copper, alloys and compounds of.	.....	Oct. 14, 1915	37	.....do.....	37
90	Copper iodide . . .	Included in "Iodine and its compounds," Oct. 14, 1915.	Mar. 11, 1915	.....	.....do.....	9
91	Copper ores . . . .	.....	Oct. 14, 1915	41	.....do.....	41
92	Copper pyrites . .	.....	Oct. 14, 1915	41	.....do.....	41
93	Corundum, nat- ural and artificial (alundum), in all forms.	.....	Oct. 14, 1915	4	.....do.....	4
94	Cotton, raw, lin- ters, cotton waste, and cotton yarns.	See No. 95 . . .	Aug. 20, 1915	.....	.....do.....	20

Absolute Contraband—Continued.

A.	B.	C.	D.	E.	F.	G.
Number of Article in this List.	Article.	References and Notes.	Date of the Proclamation first declaring Article Absolute Contraband.	Number of paragraph of Schedule I in Proclamation in Column D.	Date of Proclamation under which Article is now Absolute Contraband.	Number of paragraph of Schedule I in Proclamation in Column F.
95	Cotton piece goods and other cotton products capable of being used in the manufacture of explosives.	.....	Oct. 14, 1915	20	....do....	20
96	<i>Cresol</i>	<i>See Nos. 84 and 97</i>	<i>Dec. 23, 1914</i>	4	....do....	8
97	Cresol and its mixtures and derivatives.	<i>See No. 84</i>	Oct. 14, 1915	8	....do....	8
98	Cyanamide.....	.....	Dec. 23, 1914	4	....do....	8
99	Cyanide, sodium.	.....	Oct. 14, 1915	9	....do....	9
100	Cycles, tires for..	<i>See No. 275</i> ...	Dec. 23, 1914	25	....do....	27
101	Deer, skins of ..	.....	Mar. 11, 1915	.....	....do....	17
102	<i>Dimethylaniline</i> ..	<i>Included in "Aniline and its derivatives," Oct. 14, 1915.</i>	<i>Dec. 23, 1914</i>	4	....do....	8
103	Dioxide, manganese.	.....	Oct. 14, 1915	9	....do....	9
104	Dioxide, sulphur.	.....	Oct. 14, 1915	9	....do....	9
105	Disulphide, carbon.	.....	Oct. 14, 1915	9	....do....	9
106	Electrolytic iron.	.....	Oct. 14, 1915	33	....do....	33
107	Emery in all forms	.....	Oct. 14, 1915	4	....do....	4
108	Equipment of a distinctively military character.	.....	Aug. 4, 1914	5	....do....	14
109	Equipment, articles of camp, and their <i>distinctive</i> component parts.	<i>"Distinctive" omitted Oct. 14, 1915.</i>	Aug. 4, 1914	8	....do....	11
110	Ether.....	.....	Oct. 14, 1915	8	....do....	8
111	Ether, acetic ....	.....	Oct. 14, 1915	8	....do....	8
112	Ethyl alcohol.....	.....	Oct. 14, 1915	8	....do....	8
113	<i>Explosives, ingredients of, viz: Nitric acid, sulphuric acid, glycerine, acetone, calcium acetate, and all other metallic acetates, sulphur, potassium nitrate,</i>	<i>See No. 114</i> ... Refer to each ingredient for date when first declared contraband.	<i>Dec. 23, 1914</i>	4	.....	.....

Absolute Contraband—Continued.

A. Number of Article in this List.	B. Article.	C. References and Notes.	D. Date of the Proclamation first declaring Article Absolute Contraband.	E. Number of para- graph of Schedule I in Procla- mation in Col- umn D.	F. Date of Procla- mation under which Article is now Absolute Contraband.	G. Number of para- graph of Schedule I in Procla- mation in Col- umn F.
114	<p><i>fractions of the distillation products of coal tar between benzol and cresol, inclusive, aniline, methyl-aniline, dimethyl-aniline, ammonium perchlorate, sodium perchlorate, sodium chlorate, barium chlorate, ammonium nitrate, cyanamide, potassium chlorate, calcium nitrate, mercury.</i></p> <p>Explosives, materials used in the manufacture of, including: Nitric acid and nitrates of all kinds; sulphuric acid; fuming sulphuric acid (oleum); acetic acid and acetates; barium chlorate and perchlorate; calcium acetate, nitrate and carbide; potassium salts and caustic potash; ammonium salts and ammonia liquor; caustic soda, sodium chlorate and perchlorate; mercury; benzol, toluol, xylol, solvent naphtha, phenol (carbolic acid), cresol, naphthalene, and their mixtures and de-</p>	<p>See also No. 115 Refer to each material for date when first declared contraband.</p>	Oct. 14, 1915	8	Oct. 14, 1915	8

Absolute Contraband—Continued.

A. Number of Article in this List.	B. Article.	C. References and Notes.	D. Date of the Proclamation first declaring Article Absolute contraband.	E. Number of para- graph of Schedule I in Procla- mation in Col- umn D.	F. Date of Procla- mation under which Article is now Absolute Contraband.	G. Number of para- graph of Schedule I in Procla- mation in Col- umn F.
	rivatives; aniline, and its derivatives; glycerine; acetone; acetic ether; ethyl alcohol; methyl alcohol; ether; sulphur; urea; cyanamide; celluloid.					
115	Explosives, the following forms of cotton capable of being used in the manufacture of, viz: Raw cotton, linters, cotton waste, cotton yarns, cotton piece goods, and other cotton products.	Refer to Nos. 94 and 95 for date when first declared contraband.	Oct. 14, 1915	20	Oct. 14, 1915	40
116	Explosives specially prepared for use in war.	.....	Aug. 4, 1914	3	.....do.....	7
117	Ferro alloys, including: Ferro-tungsten, ferromolybdenum, ferro-manganese, ferro-vanadium, and ferro-chrome.	Refer to each alloy for date when first declared contraband.	Dec. 23, 1914	13	.....do.....	40
118	Ferro-chrome.....	.....	Oct. 29, 1914	15	.....do.....	40
119	Ferro-manganese.....	.....	Dec. 23, 1914	13	.....do.....	40
120	Ferro-molybdenum.	.....	Dec. 23, 1914	13	.....do.....	40
121	Ferro-silica.....	Not specified in later Proclamations.	Oct. 29, 1914	19	.....	.....
122	Ferro-tungsten.....	.....	Dec. 23, 1914	13	.....do.....	20
123	Ferro-vanadium.....	.....	Dec. 23, 1914	13	.....do.....	40
124	Field forges and their distinctive component parts.	"Distinctive" omitted Oct. 14, 1915.	Aug. 4, 1914	4	.....do.....	11
125	Flax.....	.....	Oct. 14, 1915	21	.....do.....	21
126	Fuming sulphuric acid (oleum).	.....	Oct. 14, 1915	8	.....do.....	8

Absolute Contraband—Continued.

A.	B.	C.	D.	E.	F.	G.
Num- ber of Article in this List.	Article.	References and Notes.	Date of the Proclamation first declaring Article Absolute Contraband.	Number of para- graph of Schedule I in Procla- mation in Col- umn D.	Date of Procla- mation under which Article is now Absolute Contraband.	Number of para- graph of Schedule I in Procla- mation in Col- umn F.
127	Glycerine .....	.....	Dec. 23, 1914	4	.....do.....	8
128	Goats, skins of...	.....	Mar. 11, 1915	.....	.....do.....	17
129	Guayule rubber...	See "Rubber".	Oct. 14, 1915	30	.....do.....	30
130	Gun mountings and their distinc- tive component parts.	"Distinctive" omitted Oct. 14, 1915.	Aug. 4, 1914	4	.....do.....	11
131	Gutta-percha, any preparations con- taining.	See "Rubber".	Oct. 14, 1915	30	.....do.....	30
132	Hematite iron ore	.....	Oct. 20, 1914	12	.....do.....	41
133	Hematite pig iron	.....	Oct. 29, 1914	12	.....do.....	33
134	Hair, animal, of all kinds, and tops, noils and yarns of animal hair.	See "Wool"...	Oct. 14, 1915	19	.....do.....	19
135	Harness, all kinds of, of a distinc- tively military character.	.....	Aug. 4, 1914	6	.....do.....	16
136	Hemp .....	.....	Oct. 14, 1915	21	.....do.....	21
137	Hides of cattle, buffaloes, and horses.	.....	Mar. 11, 1915	.....	.....do.....	17
138	Horses, hides of...	.....	Mar. 11, 1915	.....	.....do.....	17
139	Hydraulic leather	.....	Oct. 14, 1915	17	.....do.....	17
140	Hydrochloric acid	.....	Oct. 14, 1915	9	.....do.....	9
141	Implements and apparatus de- signed exclusiv- ely for the manu- facture of muni- tions of war, or for the manufac- ture or repair of arms or of war material for use on land or sea.	See also No. 151	Aug. 4, 1914	12	.....do.....	2
142	Implements, the, for fixing and cut- ting barbed wire.	.....	Oct. 20, 1914	20	.....do.....	12
143	Iodide, copper....	Included in No. 144, Oct. 14, 1915.	Mar. 11, 1915	.....	.....do.....	9

Absolute Contraband—Continued.

A.	B.	C.	D.	E.	F.	G.
Number of Article in this List.	Article.	References and Notes.	Date of the Proclamation first declaring Article Absolute contraband.	Number of paragraph of Schedule I in Proclamation in Column D.	Date of Proclamation under which Article is now Absolute Contraband.	Number of paragraph of Schedule I in Proclamation in Column F.
144	Iodine and its compounds.	.....	Oct. 14, 1915	9	.....do.....	9
145	Iron, electrolytic..	.....	Oct. 14, 1915	33	.....do.....	33
146	Iron ore, hematite .....	.....	Oct. 29, 1914	12	.....do.....	41
147	Iron, hematite pig .....	.....	Oct. 29, 1914	12	.....do.....	33
148	Iron pyrites .....	.....	Oct. 29, 1914	13	.....do.....	41
149	Jelutong rubber..	See "Rubber".	Oct. 14, 1915	30	.....do.....	30
150	Kapok.....	.....	Oct. 14, 1915	21	.....do.....	21
151	Lathes and other machines or machine tools capable of being employed in the manufacture of munitions of war.	See also No. 141	May 27, 1915	.....	.....do.....	3
152	Lead, pig, sheet, or pipe.	.....	Oct. 29, 1914	17	.....do.....	38
153	Lead ore.....	.....	Dec. 23, 1914	15	.....do.....	41
154	Leather, undressed or dressed, suitable for saddlery, harness, military boots, or military clothing.	See No. 155	Mar. 11, 1915	.....	.....do.....	17
155	Leather belting, hydraulic leather, and pump leather.	.....	Oct. 14, 1915	17	.....do.....	17
156	Limbers and their distinctive component parts.	"Distinctive" omitted Oct. 14, 1915.	Aug. 4, 1914	4	.....do.....	11
157	Limber boxes and their distinctive component parts.	.....do.....	Aug. 4, 1914	4	.....do.....	11
158	Linters, cotton...	.....	Aug. 20, 1915	.....	.....do.....	20
159	Lubricants .....	.....	Mar. 11, 1915	14	Oct. 14, 1915	32
160	Machines capable of being employed in the manufacture of munitions of war.	See No. 151	May 27, 1915	.....	.....do.....	3
161	Machine tools capable of being employed in the manufacture of munitions of war.	.....do.....	May 27, 1915	.....	.....do.....	3

Absolute Contraband—Continued.

A.	B.	C.	D.	E.	F.	G.
Number of Article in this List.	Article.	References and Notes.	Date of the Proclamation first declaring Article Absolute Contraband.	Number of paragraph of Schedule I in Proclamation in Column D.	Date of Proclamation under which Article is now Absolute Contraband.	Number of paragraph of Schedule I in Proclamation in Column F.
162	Manganese.....	.....	Dec. 23, 1914	14	....do....	33
163	Manganese dioxide.....	.....	Oct. 14, 1915	9	....do....	9
164	Manganese ore ..	.....	Dec. 23, 1914	15	....do....	41
165	Maps and plans of any place within the territory of any belligerent, or within the area of military operations, on a scale of 4 miles to 1 inch or any larger scale, and reproductions on any scale, by photography or otherwise, of such maps or plans.	.....	May 27, 1915	.....	....do....	42
166	Mercury.....	.....	Dec. 23, 1914	4	....do....	8
167	<i>Metallic acetates, all.</i>	<i>Varied May 27, 1915. See No. 57. "Acetates" specified Oct. 14, 1915.</i>	<i>Dec. 23, 1914</i>	4	.....	.....
168	Metals, the following: Tungsten, molybdenum, vanadium, nickel, selenium, cobalt, hematite, pig iron, manganese. Sodium, electrolytic iron, and steel containing tungsten or molybdenum.	Refer to each metal for date when first declared contraband. Added to the above.	Dec. 14, 1914 Oct. 14, 1915	..... 33	....do.... do....	33 33
169	Methyl alcohol ..	.....	Oct. 14, 1915	8	....do....	8
170	Methylaniline....	<i>Included in "Aniline and its derivatives," Oct. 14, 1915.</i>	<i>Dec. 23, 1914</i>	4	....do....	8
171	Military wagons	<i>"Distinctive"</i>	Aug. 4, 1914	4	....do....	11

Absolute Contraband—Continued.

A.	B.	C.	D.	E.	F.	G.
Number of Article in this List.	Article.	References and Notes.	Date of the Proclamation first declaring Article Absolute Contraband.	Number of paragraph of Schedule I in Proclamation in Column D.	Date of Proclamation under which Article is now Absolute Contraband.	Number of paragraph of Schedule I in Proclamation in Column F.
172	and their distinctive component parts. <i>Mineral oils and motor spirit, except lubricating oils.</i>	<i>omitted Oct. 14, 1915.</i> <i>Lubricants made absolute contraband Mar. 11, 1915. Further varied Oct. 14, 1915. See No. 173.</i>	Oct. 29, 1914	25	.....do.....	28
173	Mineral oils, including benzine and motor spirit.	.....	Oct. 14, 1915	28	.....do.....	28
174	Molybdenite . . . . .	.....	Dec. 23, 1914	15	.....do.....	41
175	Molybdenum . . . . .	.....	Dec. 23, 1914	14	.....do.....	33
176	Molybdenum, steel containing.	.....	Oct. 14, 1915	33	.....do.....	33
177	Motor spirit . . . . .	.....	Oct. 29, 1914	25	.....do.....	28
178	Motor tires	See also No. 275	Oct. 29, 1914	24	.....do.....	27
179	Motor vehicles of all kinds and their component parts.	.....	Oct. 29, 1914	23	.....do.....	26
180	Munitions of war, implements and apparatus designed exclusively for the manufacture of.	See No. 141 . . .	Aug. 4, 1914	12	.....do.....	2
181	Munitions of war, lathes and other machines or machine tools capable of being employed in the manufacture of.	See also No. 141	May 27, 1915	.....	.....do.....	3
182	Naphtha, solvent, and its mixtures and derivatives.	Included in "Coal-tar products," Dec. 23, 1914.	Oct. 14, 1915	8	.....do.....	8
183	Naphthalene, and its mixtures and derivatives.	.....do.....	Oct. 14, 1915	8	.....do.....	8
184	Nickel . . . . .	.....	Oct. 29, 1914	14	.....do.....	33
185	Nickel ore . . . . .	.....	Oct. 29, 1914	14	.....do.....	41
186	Nitrates of all kinds.	.....	Oct. 14, 1915	8	.....do.....	8

Absolute Contraband—Continued.

A. Number of Article in this List.	B. Article.	C. References and Notes.	D. Date of the Proclamation first declaring Article Absolute Contraband.	E. Number of para- graph of Schedule I in Procla- mation in Col- umn D.	F. Date of Procla- mation under which Article is now Absolute Contraband.	G. Number of para- graph of Schedule I in Procla- mation in Col- umn F.
187	Nitrate, ammonium	Included in No. 186, Oct. 14, 1915.	Dec. 23, 1914	4	.....do.....	8
188	Nitrate, calcium	.....	Dec. 23, 1914	4	.....do.....	8
189	Nitrate, potassium.	Included in No. 186, Oct. 14, 1915.	Dec. 23, 1914	4	.....do.....	8
190	Nitric acid .....	.....	Dec. 23, 1914	4	Oct. 14, 1915	8
191	Noils of animal hair.	See "Wool".....	Oct. 14, 1915	19	.....do.....	19
192	Noils, wool.....	.....do.....	Mar. 11, 1915	.....	.....do.....	19
193	Oil, camphor .....	.....	Dec. 23, 1914	5	.....do.....	29
194	Oil, castor.....	Included in "Lubricants," Oct. 14, 1915.	Mar. 11, 1915	.....	.....do.....	32
195	Oils, mineral, except lubricating oils.	Lubricants made absolute contra- band Mar. 11, 1915. Further varied Oct. 14, 1915; see No. 186.	Oct. 29, 1914	25	.....do.....	28
196	Oils, mineral, in- cluding bensine and motor spirit.	.....	Oct. 14, 1915	28	.....do.....	28
197	Oil, turpentine...	.....	Dec. 23, 1914	5	.....do.....	29
198	Oil, wood-tar....	.....	Oct. 14, 1915	29	.....do.....	29
199	Oleum (fuming sulphuric acid).	.....	Oct. 14, 1915	8	.....do.....	8
200	Ores, the following Wolframite, scheelite, mol- ybdenite, man- ganeseore, nick- el ore, chrome ore, hematite iron ore, zinc ore, lead ore, bauxite. Iron pyrites, copper pyrites, and other cop- per ores, arsen- ical ore.	Refer to each ore for date when first de- clared contra- band. Added to the above.	Dec. 23, 1914 Oct. 14, 1915	15 41	.....do..... do.....	41 41
201	Ore, tin.....	.....	Mar. 11, 1915	.....	.....do.....	39

Absolute Contraband—Continued.

A.	B.	C.	D.	E.	F.	G.
Number of Article in this List.	Article.	References and Notes.	Date of the Proclamation first declaring Article Absolute contraband.	Number of paragraph of Schedule I in Proclamation in Column D.	Date of Proclamation under which Article is now Absolute Contraband.	Number of paragraph of Schedule I in Proclamation in Column F.
202	Oxides of antimony, the.	.....	Dec. 23, 1914	17	....do....	36
203	Palembang rubber	See "Rubber".	Oct. 14, 1915	30	....do....	30
204	Paraffin wax.....	.....	Mar. 11, 1915	.....	....do....	6
205	Peppers.....	.....	Oct. 14, 1915	10	....do....	10
206	Perchlorate, ammonium.	Included in "Ammonium salts," Oct. 14, 1915.	Dec. 23, 1914	4	....do....	8
207	Perchlorate, barium.	.....	Oct. 14, 1915	8	....do....	8
208	Perchlorate, sodium.	.....	Dec. 23, 1914	4	....do....	8
209	Petroleum, toluol and mixtures of toluol derived from.	See No. 268. Varied Oct. 14, 1915.	May 27, 1915	.....	....do....	8
210	Phenol (carbolic acid) and its mixtures and derivatives.	Included in "Coal-tar products," Dec. 23, 1914.	Oct. 14, 1915	8	....do....	8
211	Phosgene (carbonyl chloride).	.....	Oct. 14, 1915	9	....do....	9
212	Phosphorus.....	.....	Oct. 14, 1915	9	....do....	9
213	Pig iron, hematite.	.....	Oct. 29, 1914	12	....do....	33
214	Pigs, skins of....	.....	Mar. 11, 1915	.....	....do....	17
215	Plans (see Maps).	.....	May 27, 1915	.....	....do....	42
216	Pontianac rubber.	See "Rubber".	Oct. 14, 1915	30	....do....	30
217	Potash, caustic ..	.....	Oct. 14, 1915	8	....do....	8
218	Potassium chlorate.	Included in No. 220, Oct. 14, 1915.	Dec. 23, 1914	4	....do....	8
219	Potassium nitrate.	Included in "Nitrates," Oct. 14, 1915.	Dec. 23, 1914	4	....do....	8
220	Potassium salts..	.....	Oct. 14, 1915	8	....do....	8
221	Powder and explosives specially prepared for use in war.	.....	Aug. 4, 1914	3	....do....	7
222	Projectiles of all kinds and their distinctive component parts.	"Distinctive" omitted Oct. 14, 1915.	Aug. 4, 1914	2	....do....	5
223	Prussiate of soda.	.....	Oct. 14, 1915	9	....do....	9
224	Pump leather....	.....	Oct. 14, 1915	17	....do....	17
225	Pyrites, copper,	.....	Oct. 14, 1915	41	....do....	41

Absolute Contraband—Continued.

A. Number of Article in this List.	B. Article.	C. References and Notes.	D. Date of the Proclamation first declaring Article Absolute Contraband.	E. Number of para- graph of Schedule I in Procla- mation in Col- umn D.	F. Date of Procla- mation under which Article is now Absolute Contraband.	G. Number of para- graph of Schedule I in Procla- mation in Col- umn F.
	and other copper ores.					
226	Pyrites, iron. ....	.....	Oct. 29, 1914	13	.....do.....	41
227	Quebracho wood. ....	.....	Oct. 14, 1915	18	.....do.....	18
228	Ramie. ....	.....	Oct. 14, 1915	21	.....do.....	21
229	Range finders and their distinctive component parts.	"Distinctive" Omitted Oct. 14, 1915.	Oct. 29, 1914	6	.....do.....	13
230	Rattans. ....	.....	Oct. 14, 1915	31	.....do.....	31
231	Resinous products, camphor and tur- pentine (oil and spirit). Wood tar and wood-tar oil.	..... Added to the above.	Dec. 23, 1914 Oct. 14, 1915	5 29	.....do..... Oct. 14, 1915	29
232	Rubber.	See No. 233 ...	Oct. 29, 1914	24	.....do.....	30
233	Rubber (including raw, waste, and reclaimed rubber), and goods made wholly of rubber.	See No. 234 ...	Dec. 23, 1914	26	.....do.....	30
234	Rubber (including raw, waste, and reclaimed rubber, solutions and jel- lies containing rubber, or any other prepara- tions containing rubber, balata, and gutta-percha, and the following varieties of rub- ber, viz.: Borneo, Guayule, Jelu- tong, Palembang, Pontianac, and all other sub- stances contain- ing caoutchouc), and goods made wholly or partly of rubber.	.....	Oct. 14, 1915	30	.....do.....	30
235	Salts of aluminium. ....	.....	Dec. 23, 1914	16	.....do.....	35
236	Salts, ammonia and	Varied Oct. 14,	Mar. 11, 1915	.....	.....do.....	8

Absolute Contraband—Continued.

A.	B.	C.	D.	E.	F.	G.
Number of Article in this List.	Article.	References and Notes.	Date of the Proclamation first declaring Article Absolute Contraband.	Number of paragraph of Schedule I in Proclamation in Column D.	Date of Proclamation under which Article is now Absolute Contraband.	Number of paragraph of Schedule I in Proclamation in Column F.
	<i>its, whether simple or compound.</i>	<i>1915. See Nos. 237 and 24.</i>				
237	Salts, ammonium.	.....	Oct. 14, 1915	8	.....do.....	8
238	Salts, potassium.	.....	Oct. 14, 1915	8	.....do.....	8
239	Scheelite.	.....	Dec. 23, 1914	15	.....do.....	41
240	Searchlights and their component parts.	.....	Oct. 14, 1915	13	.....do.....	13
241	Selenium.	.....	Dec. 23, 1914	14	.....do.....	33
242	Sheep, skins of.	.....	Mar. 11, 1915	.....	.....do.....	17
243	Signaling apparatus, submarine sound.	.....	Dec. 23, 1914	22	.....do.....	23
244	Skins of calves, pigs, sheep, goats, and deer.	.....	Mar. 11, 1915	.....	.....do.....	17
245	Soda, caustic.	.....	Oct. 14, 1915	8	.....do.....	8
246	Soda, prussiate of.	.....	Oct. 14, 1915	9	.....do.....	9
247	Sodium.	.....	Oct. 14, 1915	33	.....do.....	33
248	Sodium chlorate.	.....	Dec. 23, 1914	4	.....do.....	8
249	Sodium cyanide.	.....	Oct. 14, 1915	9	.....do.....	9
250	Sodium perchlorate.	.....	Dec. 23, 1914	4	.....do.....	8
251	Solvent naphtha and its mixtures and derivatives.	Included in "Coal-tar products" Dec. 23, 1914.	Oct. 14, 1915	8	.....do.....	8
252	Spirit, camphor.	.....	Dec. 23, 1914	5	.....do.....	29
253	Spirit, motor.	.....	Oct. 29, 1914	25	.....do.....	28
254	Spirit, turpentine.	.....	Dec. 23, 1914	5	.....do.....	29
255	Steel containing tungsten or molybdenum.	.....	Oct. 14, 1915	33	.....do.....	33
		.....	Oct. 14, 1915	33	.....do.....	33
256	Submarine sound-signaling apparatus.	.....	Dec. 23, 1914	22	.....do.....	23
257	Sulphides of antimony, the.	.....	Dec. 23, 1914	17	.....do.....	36
258	Sulphur.	.....	Dec. 23, 1914	4	.....do.....	8
259	Sulphur dioxide.	.....	Oct. 14, 1915	9	.....do.....	9
260	Sulphuric acid.	.....	Oct. 29, 1914	4	.....do.....	8
261	Sulphuric acid, fuming (oleum).	.....	Oct. 14, 1915	8	.....do.....	8
262	Tanning substances of all kinds, including	.....	Oct. 14, 1915	18	.....do.....	18

Absolute Contraband—Continued.

A.	B.	C.	D.	E.	F.	G.
Number of Article in this List.	Article.	References and Notes.	Date of the Proclamation first declaring Article Absolute Contraband.	Number of paragraph of Schedule I in Proclamation in Column D.	Date of Proclamation under which Article is now Absolute Contraband.	Number of paragraph of Schedule I in Proclamation in Column F.
263	quebracho wood and extracts for use in tanning. <i>Tar, coal. (See under "Coal tar and toluol.")</i>					
264	Tar, wood and wood-tar oil.	.....	Oct. 14, 1915	29	....do....	29
265	Tin.....	.....	Mar. 11, 1915	.....	....do....	39
266	Tin, chloride of..	.....	Mar. 11, 1915	.....	....do....	39
267	Tin ore.....	.....	Mar. 11, 1915	.....	....do....	39
268	<i>Toluol, and mixtures of toluol, whether derived from coal tar, petroleum, or any other source.</i>	<i>See No. 269 and also No. 84.</i>	<i>May 27, 1915</i>	.....	....do....	8
269	Toluol and its mixtures and derivatives.	See No. 268 ...	Oct. 14, 1915	8	....do....	8
270	Tops of animal hair.	See "Wool"...	Oct. 14, 1915	19	....do....	19
271	Tops, wool.....	.....	Mar. 11, 1915	.....	....do....	19
272	Tungsten.....	.....	Dec. 23, 1914	14	....do....	33
273	Tungsten, steel containing.	.....	Oct. 14, 1915	33	....do....	33
274	Turpentine (oil and spirit).	.....	Dec. 23, 1914	5	....do....	29
275	Tires for motor vehicles and for cycles, together with articles or materials especially adapted for use in the manufacture or repair of tires.	.....	Dec. 23, 1914	25	Oct. 14, 1915	27
276	<i>Tires, motor</i>	<i>See No. 275 ...</i>	<i>Oct. 29, 1914</i>	<i>24</i>	<i>....do....</i>	<i>27</i>
277	<i>Urea and its compounds.</i>	<i>Words in italics Omitted Oct. 14, 1915.</i>	Mar. 11, 1915	.....	....do....	8
278	Vanadium.....	.....	Dec. 23, 1914	14	....do....	33
279	Vehicles, motor, of all kinds and their component parts.	.....	Oct. 29, 1914	23	....do....	26

Absolute Contraband—Continued.

A.	B.	C.	D.	E.	F.	G.
Number of Article in this List.	Article.	References and Notes.	Date of the Proclamation first declaring Article Absolute contraband.	Number of paragraph of Schedule I in Proclamation in Column D.	Date of Proclamation under which Article is now Absolute Contraband.	Number of paragraph of Schedule I in Proclamation in Column F.
280	Vehicles, tires for motor.	See No. 275 ...	Dec. 23, 1914	25	.....do.....	27
281	Wagons, military, and their distinctive component parts.	"Distinctive" omitted Oct. 14, 1915.	Aug. 4, 1914	4	.....do.....	11
282	War material for use on land or sea, implements and apparatus designed exclusively for the manufacture or repair of.	See No. 141 ...	Aug. 4, 1914	.....12	.....do.....	2
283	Warships, including boats and their distinctive component parts of such a nature that they can only be used on a vessel of war.	"Distinctive" omitted Oct. 14, 1915.	Aug. 4, 1914	.....	.....do.....	22
284	Waste, cotton ...	.....	Aug. 20, 1915	.....	.....do.....	20
285	Waste rubber....	.....	Oct. 14, 1915	30	.....do.....	30
286	Waste, wool....	.....	Oct. 14, 1915	19	.....do.....	19
287	Wax, paraffin....	.....	Mar. 11, 1915	.....	.....do.....	6
288	Wire, barbed, and the implements for fixing and cutting the same.	.....	Oct. 29, 1914	20	.....do.....	12
289	Wire, copper ....	.....	Dec. 23, 1914	18	.....do.....	37
290	Wolframite.....	.....	Dec. 23, 1914	15	.....do.....	41
291	Wood, quebracho.	.....	Oct. 14, 1915	18	.....do.....	18
292	Wood, tar and wood-tar oil.	.....	Oct. 14, 1915	29	.....do.....	29
293	Wool, raw, wool tops and noils and woolen and worsted yarns.	See No. 294 ...	Mar. 11, 1915	.....	.....do.....	19
294	Wool, raw, combed or carded; wool waste; wool tops and noils; woolen or worsted yarns; animal hair of all kinds, and tops.	See No. 293 ...	Oct. 14, 1915	19	.....do.....	19

Absolute Contraband—Continued.

A.	B.	C.	D.	E.	F.	G.
Number of Article in this List.	Article.	References and Notes.	Date of the Proclamation first declaring Article Absolute Contraband.	Number of paragraph of Schedule I in Proclamation in Column D.	Date of Proclamation under which Article is now Absolute Contraband.	Number of paragraph of Schedule I in Proclamation in Column F.
	noils and yarns of animal hair.					
295	Yarns of animal hair.	.....	Oct. 14, 1915	19	.....do.....	19
296	Yarns, cotton....	.....	Aug. 20, 1915	.....	.....do.....	20
297	Yarns, woolen or worsted.	.....	Mar. 11, 1915	.....	.....do.....	19
298	Zinc ore .....	.....	Dec. 22, 1914	15	.....do.....	41
299	Xylol, and its mixtures and derivatives.	<i>Included in "Coal-tar products," Dec. 23, 1914.</i>	Oct. 14, 1915	8	.....do.....	8

Conditional Contraband.

[List compiled to Nov. 5, 1915.]

NOTE.—Articles printed in *italics* have been varied or withdrawn by later Proclamations.

A.	B.	C.	D.	E.	F.	G.
Number of Article in this List.	Article.	References and Notes.	Date of Proclamation first declaring Article Conditional Contraband.	Number of paragraph of Schedule II in Proclamation in Column D.	Date of Proclamation under which Article is now Conditional Contraband.	Number of paragraph of Schedule II in Proclamation in Column F.
1	<i>Barbed wire, and implements fixing and cutting the same.</i>	<i>Made absolute contraband Oct. 29, 1914.</i>	<i>Aug. 4, 1914</i>	10	.....	.....
2	Boats of all kinds.	See No. 283 of absolute contraband.	Aug. 4, 1914	6	Oct. 14, 1915	12
3	Boots and shoes, if suitable for use in war.	.....	Aug. 4, 1914	3	.....do.....	9
4	Bullion, gold or silver.	.....	Aug. 4, 1914	4	.....do.....	14
5	<i>Cakes and meals made from oleagi-</i>	<i>See No. 21; included in "Feed-</i>	<i>Mar. 11, 1915</i>	.....	Oct. 14, 1915	2

Conditional Contraband—Continued.

A.	B.	C.	D.	E.	F.	G.
Number of Article in this List.	Article.	References and Notes.	Date of Proclamation first declaring Article Conditional Contraband.	Number of paragraph of Schedule II in Proclamation in Column D.	Date of Proclamation under which Article is now Conditional Contraband.	Number of paragraph of Schedule II in Proclamation in Column F.
	<i>nous seeds, nuts, and kernels.</i>	<i>ing stuffs for animals" Oct. 14, 1915.</i>				
6	Chronometers . . .	.....	Aug. 4, 1914	13	.....do.....	13
7	Clothing and fabrics for clothing, if suitable for use in war.	.....	Aug. 4, 1914	3	.....do.....	9
8	Coin, gold, or silver; paper money.	.....	Aug. 4, 1914	4	.....do.....	14
9	Copper, unwrought.	<i>Made absolute contraband Oct. 29, 1914.</i>	<i>Sept. 21, 1914</i>	.....	.....	.....
10	Craft of all kinds.	<i>See No. 283 of absolute contraband.</i>	Aug. 4, 1914	6	Oct. 14, 1915	12
11	Docks, floating, and their component parts.	.....	Aug. 4, 1914	6	.....do.....	12
12	Docks, parts of ..	.....	Aug. 4, 1914	6	.....do.....	12
13	Explosives not specially prepared for use in war.	.....	Aug. 4, 1914	9	.....do.....	6
14	Fabrics for clothing, if suitable for use in war.	.....	Aug. 4, 1914	3	.....do.....	9
15	<i>Fats, animal and vegetable (other than linseed oil), suitable for use in the manufacture of margarine.</i>	<i>Linseed oil made conditional contraband May 27, 1915. Varied Oct. 14, 1915. See No. 16.</i>	<i>Mar. 11, 1915</i>	.....	.....	.....
16	Fats, animal, fish, and vegetable, other than those capable of use as lubricants.	<i>See No. 52</i>	Oct. 14, 1915	4	Oct. 14, 1915	4
17	Feeding stuffs for animals.	<i>See No. 21</i>	Oct. 29, 1914	2	.....do.....	2
18	Ferrochrome.....	<i>Made absolute contraband Oct. 29, 1914.</i>	<i>Sept. 21, 1914</i>	.....	.....	.....
19	Field glasses.....	.....	Aug. 4, 1914	13	Oct. 14, 1915	13
20	Floating docks and	.....	Aug. 4, 1914	6	.....do.....	12

Conditional Contraband—Continued.

A. Number of Article in this List.	B. Article.	C. References and Notes.	D. Date of Proclamation first declaring Article Conditional Contraband.	E. Number of paragraph of Schedule II in Proclama- tion in Column D.	F. Date of Proclamation under which Article is now Conditional Contraband.	G. Number of paragraph of Schedule II in Proclama- tion in Column F.
21	their component parts; parts of docks. Foodstuffs. <i>The terms "food- stuffs" and "feed- ing stuffs for ani- mals" declared to include oleaginous seeds, nuts, and kernels; animal and vegetable oils and fats (other than linseed oil) suitable for use in the manufacture of margarine; and cakes and meals made from oleagi- nous seeds, nuts, and kernels.</i>	..... <i>This definition not included Oct. 14, 1915.</i>	Aug. 4, 1914 <i>March 11, 1915</i>	1.....	.....do.....	1
22	<i>Forage and grain, suitable for feed- ing animals.</i>	<i>Varied on Oct. 29, 1914. See No. 23.</i>	Aug. 4, 1914	2	Oct. 14, 1915	2
23	Forage and feeding stuffs for animals.	<i>See No. 21</i>	Oct. 29, 1914	2	.....do.....	2
24	Fuel.	<i>See No. 25</i>	Aug. 4, 1914	8	.....	.....
25	Fuel, other than mineral oils.	.....	Oct. 29, 1914	8	Oct. 14, 1915	5
26	Furs utilisable for clothing, if suit- able for use in war.	.....	Oct. 14, 1915	9	.....do.....	9
27	Glasses, field. ....	.....	Aug. 4, 1914	13	.....do.....	13
28	Glycerine.	<i>Made absolute contraband Dec. 23, 1914.</i>	<i>Sept. 21, 1914</i>	.....	.....	.....
29	<i>Grain, suitable for feeding animals.</i>	<i>Varied on Oct. 29, 1914. See No. 23.</i>	Aug. 4, 1914	2	Oct. 14, 1915	2
30	Gold, in coin or bullion.	.....	Aug. 4, 1914	4	.....do.....	14
31	Hematite iron ore.	<i>Made absolute contraband Oct. 29, 1914.</i>	<i>Sept. 21, 1914</i>	.....	.....	.....

Conditional Contraband—Continued.

A.	B.	C.	D.	E.	F.	G.
Number of Article in this List.	Article.	References and Notes.	Date of Proclamation first declaring Article Conditional Contraband.	Number of paragraph of Schedule II in Proclamation in Column D.	Date of Proclamation under which Article is now Conditional Contraband.	Number of paragraph of Schedule II in Proclamation in Column F.
32	Harness and saddlery.	See No. 135 of absolute contraband.	Aug. 4, 1914	12	Oct. 14, 1915	8
33	Hides, raw or rough-tanned (but not including dressed leather).	Varied Oct. 20, 1914. See Nos. 34 and 42.	Sept. 21, 1914	.....	.....	.....
34	Hides of all kinds, dry or wet.	See No. 137 of absolute contraband for certain hides made absolute contraband on Mar. 11, 1915. Hides not included in conditional contraband Oct. 14, 1915.	Oct. 20, 1914	14	.....	.....
35	Horseshoes and shoeing materials.	.....	Aug. 4, 1914	11	Oct. 14, 1915	7
36	Implements for fixing and cutting barbed wire.	Made absolute contraband Oct. 20, 1914.	Aug. 4, 1914	10	.....	.....
37	Instruments, all kinds of nautical.	.....	Aug. 4, 1914	13	Oct. 14, 1915	13
38	Iron ore, hematite.	Made absolute contraband Oct. 20, 1914.	Sept. 21, 1914	.....	.....	.....
39	Iron ore, magnetic.	Not specified in later lists.	Sept. 21, 1914	.....	.....	.....
40	Kernels, nuts and.	See also No. 5.	Mar. 11, 1915	.....	Oct. 14, 1915	3
41	Lead, pig, sheet, or pipe.	Made absolute contraband Oct. 20, 1914.	Sept. 21, 1914	.....	.....	.....
42	Leather, undressed or dressed, suitable for saddlery, harness, or military boots.	Made absolute contraband Mar. 11, 1915.	Oct. 20, 1914	14	.....	.....
43	Linseed oil.....	Included in "Oils, vegetable," Oct. 14, 1915.	May 27, 1915	.....	Oct. 14, 1915	4

Conditional Contraband—Continued.

A.	B.	C.	D.	E.	F.	G.
Number of Article in this List.	Article.	References and Notes.	Date of Proclamation first declaring Article Conditional Contraband.	Number of paragraph of Schedule II in Proclamation in Column D.	Date of Proclamation under which Article is now Conditional Contraband.	Number of paragraph of Schedule II in Proclamation in Column F.
44	Lubricants.....	Made absolute contraband Mar. 11, 1915.	Aug. 4, 1914	8	.....	.....
45	Magnetic iron ore.	Not specified in later lists.	Sept. 21, 1914	.....	.....	.....
46	Meals made from oleaginous seeds, nuts, and kernels.	See No. 21. Included in "feeding stuffs for animals" Oct. 14, 1915.	Mar. 11, 1915	.....	Oct. 14, 1915	2
47	Money, paper; gold and silver in coin or bullion.	.....	Aug. 4, 1914	.....4	.....do.....	14
48	Nautical instruments, all kinds of.	.....	Aug. 4, 1914	13	.....do.....	13
49	Nuts and kernels.	See also No. 5.	Mar. 11, 1915	.....	.....do.....	3
50	Oil, linseed.....	Included in "Oils, vegetable," Oct. 14, 1915.	May 27, 1915	.....	Oct. 14, 1915	4
51	Oils, animal and vegetable (other than linseed oil, suitable for use in the manufacture of margarine.	Linseed oil made conditional contraband, May 27, 1915. Varied, Oct. 14, 1915. See No. 52.	Mar. 11, 1915	.....	.....	.....
52	Oils, animal, fish, and vegetable, other than those capable of use as lubricants, and not including essential oils.	See No. 16.....	Oct. 14, 1915	4	Oct. 14, 1915	4
53	Oleaginous seeds.	See also No. 5..	Mar. 11, 1915	.....	.....do.....	3
54	Ore, hematite iron.	Made absolute contraband Oct. 29, 1914.	Sept. 21, 1914	.....	.....	.....
55	Ore, magnetic iron.	Not specified in later lists.	Sept. 21, 1914	.....	.....	.....
56	Paper money....	.....	Aug. 4, 1914	4	Oct. 14, 1915	14
57	Pigskins, raw or dressed.	Made absolute contraband	Oct. 29, 1914	14	.....	.....

Conditional Contraband—Continued.

A. Number of Article in this List.	B. Article.	C. References and Notes.	D. Date of Proclamation first declaring Article Conditional Contraband.	E. Number of paragraph of Schedule II in Proclama- tion in Column D.	F. Date of Proclamation under which Article is now Conditional Contraband.	G. Number of paragraph of Schedule II in Proclama- tion in Column F.
58	Powder and explosives, not specially prepared for use in war.	<i>Mar. 11, 1915.</i>	Aug. 4, 1914	9	Oct. 14, 1915	6
59	Railway materials, both fixed and rolling stock.	.....	Aug. 4, 1914	7	.....do.....	11
60	Rolling stock, railway materials.	.....	Aug. 4, 1914	7	.....do.....	11
61	Rubber.....	<i>Made absolute contraband Oct. 29, 1914.</i>	<i>Sept. 21, 1914</i>	.....	.....	.....
62	Saddlery.....	See No. 135 of absolute contraband.	Aug. 4, 1914	12	Oct. 14, 1915	8
63	Seeds, oleaginous.	<i>See also No. 5</i>	Mar. 11, 1915	.....	.....do.....	3
64	Shoeing materials.	.....	Aug. 4, 1914	11	.....do.....	7
65	Shoes, if suitable for use in war.	.....	Aug. 4, 1914	3	.....do.....	9
66	Silver in coin or bullion.	.....	Aug. 4, 1914	4	.....do.....	14
67	Skins, raw or rough tanned (but not including dressed leather).	<i>Varied Oct. 29, 1914. See Nos. 48, 68, and 69.</i>	<i>Sept. 21, 1914</i>	.....	.....	.....
68	Skins (pig), raw or dressed.	<i>Made absolute contraband Mar. 11, 1915.</i>	<i>Oct. 29, 1914</i>	14	.....	.....
69	Skins utilisable for clothing, if suitable for use in war.	See No. 244 of absolute contraband for certain skins made absolute contraband Mar. 11, 1915.	Oct. 14, 1915	9	Oct. 14, 1915	9
70	Sulphur.....	<i>Made absolute contraband Dec. 23, 1914.</i>	<i>Oct. 29, 1914</i>	10	.....	.....
71	Tanning substances of all kinds (including extracts for use in tanning).	<i>Made absolute contraband Oct. 14, 1915.</i>	<i>Mar. 11, 1915</i>	.....	.....	.....

Conditional Contraband—Continued.

A.	B.	C.	D.	E.	F.	G.
Number of Article in this List.	Article.	References and Notes.	Date of Proclamation first declaring Article Conditional Contraband.	Number of paragraph of Schedule II in Proclamation in Column D.	Date of Proclamation under which Article is now Conditional Contraband.	Number of paragraph of Schedule II in Proclamation in Column F.
72	Telegraphs, wireless telegraphs, and telephones, materials for.	.....	Aug. 4, 1914	7	Oct. 14, 1915	11
73	Telephones, materials for.	.....	Aug. 4, 1914	7	.....do.....	11
74	Telescopes.....	.....	Aug. 4, 1914	13	.....do.....	13
75	Vehicles of all kinds, other than motor vehicles, available for use in war, and their component parts.	"Other than motor vehicles" added.	Aug. 4, 1914	5	.....	.....
			Oct. 29, 1914	5	Oct. 14, 1915	10
76	Vessels, craft, and boats of all kinds.	See No. 283 of absolute contraband.	Aug. 4, 1914	6	.....do.....	12
77	Wire, barbed, and implements for fixing and cutting the same.	Made absolute contraband Oct. 29, 1914.	Aug. 4, 1914	10	.....	.....
78	Wireless telegraphs, materials for.	.....	Aug. 4, 1914	7	Oct. 14, 1915	11

Consul General Skinner to the Secretary of State.

[Extract.]

No. 1140.]

AMERICAN CONSULATE GENERAL,
London, February 1, 1916.

SIR: I have the honor to acknowledge the receipt of Department's instruction.¹

I am inclosing herewith a supplement of The London Gazette, No. 29452, issued January 27, 1916, containing the official text of the proclamation referred to in the foregoing.

I have, etc.,

ROBERT P. SKINNER.

¹ Not printed.

[Inclosure.]

PROCLAMATION JANUARY 27, 1916, REVISING THE LIST OF ARTICLES TO BE
TREATED AS CONTRABAND OF WAR.

GEORGE, R. I.

Whereas on the 14th day of October, 1915, We did issue Our Royal Proclamation specifying the articles which it was Our intention to treat as contraband during the continuance of hostilities or until We did give further public notice; and

Whereas it is expedient to make certain further additions to and amendments in the said list:

Now, therefore, We do hereby declare, by and with the advice of Our Privy Council, that during the continuance of the war or until We do give further public notice the following articles will be treated as absolute contraband, in addition to those set out in Schedule I of Our Royal Proclamation aforementioned:

Cork, including cork dust.

Bones in any form, whole or crushed, and bone ash.

Soap.

Vegetable fibres and yarns made therefrom.

And We do hereby further declare that as from this date the following amendments shall be made in Schedule I of Our Royal Proclamation aforementioned:

In item 8, for "acetone" shall be substituted "acetones, and raw or finished materials usable for their preparation."

In item 9, for "phosphorus" shall be substituted "phosphorus and its compounds."

In item 26 there shall be added after the word "parts" the words "and accessories."

In item 38 the more general term "lead" shall be substituted for the words "lead, pig, sheet, or pipe."

And We do hereby further declare that the following articles shall as from this date be treated as conditional contraband in addition to those set out in Schedule II of Our Royal Proclamation aforementioned:

Casein.

Bladders, guts, casings, and sausage skins.

Given at Our Court at Buckingham Palace, this twenty-seventh day

of January, in the year of our Lord one thousand nine hundred and sixteen, and in the Sixth year of Our Reign.

Ambassador W. H. Page to the Secretary of State.

No. 3506.]

AMERICAN EMBASSY,
London, April 18, 1916.

SIR: Referring to my cablegram No. 4166 of the 17th¹ instant giving the substance of a Proclamation, dated April 12, 1916, making certain additions to and amendments in the List of Articles to be treated as contraband of war during the continuance of hostilities, I have the honor to transmit herewith to the Department seven (7) copies of the extract from the Second Supplement to the London Gazette of Tuesday, April 11, 1916, in which the above-mentioned proclamation is published.

I have, etc.,

WALTER HINES PAGE.

[Inclosure.]

A PROCLAMATION MAKING CERTAIN ADDITIONS TO AND AMENDMENTS
IN THE LIST OF ARTICLES TO BE TREATED AS CONTRABAND OF WAR.

GEORGE R. I.

Whereas on the 14th day of October, 1915, We did issue Our Royal Proclamation specifying the articles which it was Our intention to treat as contraband during the continuance of hostilities, or until We did give further public notice;

And whereas on the 27th day of January, 1916, We did by Our Royal Proclamation of that date make certain additions to and modification in the list of articles to be treated as contraband;

And whereas it is expedient to make certain further additions to and modifications in the said list:

Now, therefore, We do hereby declare, by and with the advice of Our Privy Council, that during the continuance of the war or until We do give further public notice, the following articles will be treated

¹ Not printed.

as absolute contraband in addition to those set out in Our Royal Proclamations aforementioned:

Gold, silver, paper money, and all negotiable instruments and realizable securities.

Metallic chlorides, except chloride of sodium; metalloidal chlorides; halogen compounds of carbon.

Starch.

Borax, boric acid, and other boron compounds.

Sabadilla seeds and preparations therefrom.

And We do hereby further declare that as from this date the following amendments shall be made in Schedule 1 of Our Royal Proclamation aforesaid:

In item 3 the following shall be substituted for the present wording:

"Lathes, machines, and tools capable of being employed in the manufacture of munitions of war."

In item 8 for "ether" shall be substituted "formic ether; sulphuric ether."

And We do hereby further declare that no gold, silver, or paper money captured after this date shall be treated as conditional contraband, and that, except as to captures already effected, item 14 shall as from this date be struck out of Schedule II of Our Royal Proclamation aforementioned.

Given at Our Court at Buckingham Palace, this twelfth day of April, in the year of our Lord, one thousand nine hundred and sixteen, and in the Sixth year of Our Reign.

Report from the Consulate General at London to the Secretary of State.

[Extract.]

AMERICAN CONSULATE GENERAL,

London, April 20, 1916.

Vice Consul Reed reports that a White Paper has been issued under the authority of the British Foreign Office which states in part that the distinction between the two classes of contraband has ceased to have any value and that the treatment of them must be identical. Copies of the White Paper are enclosed.

[Inclosure.]

LIST OF ARTICLES DECLARED TO BE CONTRABAND OF WAR—PRESENTED
TO BOTH HOUSES OF PARLIAMENT BY COMMAND OF HIS MAJESTY, APRIL,
1916.

The articles declared to be contraband of war in the proclamations now in force have been arranged alphabetically in the accompanying list. It is hoped that this will be convenient to all parties concerned.

The list comprises the articles which have been declared to be absolute contraband as well as those which have been declared to be conditional contraband. The circumstances of the present war are so peculiar that His Majesty's Government consider that for practical purposes the distinction between the two classes of contraband has ceased to have any value. So large a proportion of the inhabitants of the enemy country are taking part, directly or indirectly, in the war that no real distinction can now be drawn between the armed forces and the civilian population. Similarly, the enemy Government has taken control, by a series of decrees and orders, of practically all the articles in the list of conditional contraband, so that they are now available for Government use. So long as these exceptional conditions continue our belligerent rights with respect to the two kinds of contraband are the same and our treatment of them must be identical.

FOREIGN OFFICE, *April 13, 1916.*

LIST OF ARTICLES.

Acetic acid and acetates.

Acetic ether.

Acetones, and raw and finished materials, usable for their preparation.

Aircraft of all kinds, including aeroplanes, airships, balloons, and their component parts, together with accessories and articles suitable for use in connection with aircraft.

Aluminium, alumina, and salts of aluminium.

Ammonia liquor.

Ammonium salts.

Aniline and its derivatives.

Animals, saddle, draught, or pack, suitable, or which may become suitable, for use in war.

Antimony, together with the sulphides and oxides of antimony.

Apparatus designed exclusively for the manufacture of munitions of war, or for the manufacture or repair of arms or of war material for use on land or sea.

Armor plates.

Arms of all kinds, including arms for sporting purposes, and their component parts.

Arsenic and its compounds.

Arsenical ore.

Articles especially adapted for use in the manufacture or repair of tyres.

Asbestos.

Barbed wire.

Barium chlorate and perchlorate.

Bauxite.

Benzol and its mixtures and derivatives.

Bladders, guts, casings, and sausage skins.

Bones in any form, whole or crushed, and bone ash.

Boots and shoes suitable for use in war.

Borax, boric acid, and other boron compounds.

Bromine.

Calcium acetate, calcium nitrate, and calcium carbide.

Camp equipments, articles of, and their component parts.

Camphor.

Capsicum.

Carbon disulphide.

Carbon, halogen compounds of.

Carbonyl chloride.

Carborundum in all forms.

Casein.

Caustic potash and caustic soda.

Celluloid.

Charges and cartridges of all kinds and their component parts.

Chlorides, metallic (except chloride of sodium) and metalloidic.

Chlorine.

Chrome ore.

Chronometers.

Clothing and fabrics for clothing suitable for use in war.

Clothing of a distinctively military character.

Cobalt.

Copper pyrites and other copper ores.

Copper unwrought and part wrought, copper wire, alloys and compounds of copper.

Cork, including cork dust.

Corundum, natural and artificial (alundum), in all forms.

Cotton, raw, linters, cotton waste, cotton yarns, cotton piece-goods, and other cotton products capable of being used in the manufacture of explosives.

Cresol and its mixtures and derivatives.

Cyanamide.

Docks, parts of.

Emery in all forms.

Equipment of a distinctively military character.

Ethyl alcohol.

Explosives, whether specially prepared for use in war or not.

Ferro alloys, including ferro-tungsten, ferro-molybdenum, ferro-manganese, ferro-vanadium, and ferro-chrome.

Field forges and their component parts.

Field glasses.

Flax.

Floating docks and their component parts.

Foodstuffs.

Forage and feeding stuffs for animals.

Formic ether.

Fuel, other than mineral oils.

Fuming sulphuric acid.

Furs utilizable for clothing suitable for use in war.

Glycerine.

Gold.

Gun mountings and their component parts.

Hair, animal, of all kinds, and tops, noils, and yarns of animal hair.

Harness and saddlery.

Harness of a distinctively military character, all kinds of.

Hemp.

Hides of cattle, buffaloes, and horses.

Horseshoes and shoeing material.

Hydrochloric acid.

Implements designed exclusively for the manufacture of munitions of

war, or for the manufacture or repair of arms or of war material for use on land or sea.

Implements for fixing and cutting barbed wire.

Iodine and its compounds.

Iron, electrolytic.

Iron, hæmatite and hæmatite iron ore.

Iron pyrites.

Kapok.

Lathes capable of being employed in the manufacture of munitions of war.

Lead and lead ore.

Leather belting, hydraulic leather, pump leather.

Leather, undressed or dressed, suitable for saddlery, harness, military boots, or military clothing.

Limbers and limber boxes and their component parts.

Lubricants.

Machines capable of being employed in the manufacture of munitions of war.

Manganese and manganese ore.

Manganese dioxide.

Maps and plans of any place within the territory of any belligerent, or within the area of military operations, on a scale of 4 miles to 1 inch or any larger scale, and reproductions on any scale, by photography or otherwise, of such maps or plans.

Materials especially adapted for use in the manufacture or repair of tyres.

Materials used in the manufacture of explosives.

Mercury.

Methyl alcohol.

Military wagons and their component parts.

Mineral oils, including benzine and motor spirit.

Molybdenum and molybdenite.

Motor vehicles of all kinds and their component parts and accessories.

Naphthalene and its mixtures and derivatives.

Nautical instruments, all kinds of.

Negotiable instruments.

Nickel and nickel ore.

Nitric acid and nitrates of all kinds.

Oils and fats, animal, fish, and vegetable, other than those capable of use as lubricants, and not including essential oils.

Oleaginous seeds, nuts, and kernels.

Oleum.

Paper money.

Paraffin wax.

Peppers.

Phenol (carbolic acid) and its mixtures and derivatives.

Phosphorus and its compounds.

Phosgene.

Potassium salts.

Powders, whether specially prepared for use in war or not.

Projectiles of all kinds and their component parts.

Prussiate of soda.

Railway materials, both fixed and rolling stock.

Ramie.

Range finders and their component parts.

Rattans.

Realizable securities.

Resinous products.

Rubber (including raw, waste, and reclaimed rubber, solutions and jellies containing rubber, or any other preparations containing rubber, balata, and gutta-percha, and the following varieties of rubber, viz, Borneo, Guayule, Jelutong, Palembang, Pontianac, and all other substances containing caoutchouc) and goods made wholly or partly of rubber.

Sabadilla seeds and preparations therefrom.

Scheelite.

Searchlights and their component parts.

Selenium.

Silver.

Skins of calves, pigs, sheep, goats, and deer.

Skins utilizable for clothing suitable for use in war.

Soap.

Sodium.

Sodium chlorate and perchlorate.

Sodium cyanide.

Solvent naphtha and its mixtures and derivatives.

Starch.

Steel containing tungsten or molybdenum.
Submarine sound signalling apparatus.
Sulphur.
Sulphur dioxide.
Sulphuric acid.
Sulphuric ether.
Tanning substances of all kinds, including quebracho wood and extracts for use in tanning.
Telegraphs, materials for.
Telephones, materials for.
Telescopes.
Tin, chloride of tin, and tin ore.
Toluol and its mixtures and derivatives.
Tools capable of being employed in the manufacture of munitions of war.
Tungsten.
Turpentine (oil and spirit).
Tyres for motor vehicles and for cycles.
Urea.
Vanadium.
Vegetable fibres and yarns made therefrom.
Vehicles of all kinds, other than motor vehicles, available for use in war, and their component parts.
Vessels, craft, and boats of all kinds.
Warships, including boats and their component parts of such a nature that they can only be used on a vessel of war.
Wireless telegraphs, materials for.
Wolframite.
Wood tar and wood-tar oil.
Wood tar and wood-tar oil.
Wool, raw, combed, or carded; wool waste; wool tops and noils, woollen or worsted yarns.
Xylol and its mixtures and derivatives.
Zinc ore.

PART III.

RESTRAINTS ON COMMERCE.

(Continuation of correspondence printed in Special Supplement, July, 1915, pp. 55-83, 101-125, 141-146, 153-155, 157-165.)

Ambassador W. H. Page to the Secretary of State.

No. 1468.]

AMERICAN EMBASSY,
London, May 20, 1915.

SIR: Referring to my cablegram No. 2129 of May 19th,¹ I have the honor to transmit herewith to the Department copy, in duplicate, of a memorandum respecting American ships and cargoes detained at British ports, which I have received from Sir Edward Grey in reply to my numerous conversations with him upon this subject, and also a copy, in duplicate, of a note verbale substantiating his memorandum.

I have, etc.,

W. H. PAGE.

[Inclosure.]

No. 57189/15.]

MEMORANDUM RESPECTING AMERICAN SHIPS AND CARGOES DETAINED AT
BRITISH PORTS.

There is at the present moment detained in this country but one American ship, the *Joseph W. Fordney*.² This vessel, with a cargo of feeding stuffs consigned to E. Klingener at Malmo was brought into Kirkwall on the 8th April. She had been sighted by His Majesty's ships about ten miles from the Norwegian coast, and had thereupon endeavored, with the evident desire to evade search, to escape rapidly into Norwegian territorial waters, but without success. On the vessel's

¹ Not printed.

² For correspondence regarding the detention of this ship, see *infra*, pp. 151-160.

arrival at Kirkwall enquiries were at once addressed to His Majesty's Minister at Stockholm in regard to the consignee of the cargo and a reply was received to the effect that no person of the name could be identified at Malmo, though a person of the name, who resided at Gothenburg and was manager of the Gothenburg branch of the Hamburg firm of Hugo Hartwig, had stated that the consignments addressed to him on board the *Joseph W. Fordney* were intended for storage in Malmo.

2. The suspicious conduct of the vessel in endeavoring to elude His Majesty's patrols, and the known connections of the consignee of her cargo, have tended to confirm other evidence which has come to the knowledge of His Majesty's Government that the foodstuffs were in reality destined for Germany. It was accordingly decided, as the United States Ambassador was duly informed, that the cargo must be placed in the Prize Court and the vessel is at present discharging at Portishead, on the completion of which operation she will be released. His Majesty's Government feel satisfied that, in the circumstances of this case, undue interference with American interests can not with reason be imputed to them.

3. The number of neutral vessels carrying American cargoes and at present held up, is thirty-six; of these, twenty-three carry cargoes of American cotton. The United States Government are aware that, since the enforcement of the Blockade measures announced in the supplement of the London Gazette of the 12th March last, His Majesty's Government have acted, as regards shipment of American cotton, in accordance with the provisions of an arrangement arrived at in collaboration with representatives of the American cotton interests. The terms of the arrangement are as follows:

1. All cotton for which contracts of sale and freight engagements have already been made before the 2nd March is to be allowed free (or bought at contract price if stopped), provided the ship sails not later than the 31st March.

2. Similar treatment is to be accorded to all cotton insured before the 2nd March, provided it is put on board not later than the 16th March.

3. All shipments of cotton claiming the above protection are to be declared before sailing, and documents produced to and certificates obtained from consular officers or other authority fixed by the Government.

4. In accepting this scheme, which, it may be noted, applies to shipments of cotton for neutral destinations only, the principal representative of the American cotton interests described it to His Majesty's Amba-

sador at Washington as conceding all that the American interests could properly ask. It was never suggested that vessels or cargoes with an enemy destination should be allowed to proceed. His Majesty's Government were, moreover, given to understand that the provisions of the arrangement were acceptable to the United States Government.

5. As the United States Ambassador has already been informed, it is intended shortly to furnish a statement showing precisely what cargoes, or what portions of cargoes, His Majesty's Government have dealt with under the above arrangement, and, as regards those which they have decided to purchase at contract price, under the terms of paragraph 1 of the arrangement, direct discussions have already been opened with special representatives of the American parties interested in London.

6. A considerable portion of the cotton has already been sold, and arrangements are being made for handing over the proceeds to the parties entitled to receive the total value as a first installment of the completed transaction. It is obvious that all these arrangements require some time for adjustment. Meanwhile it is not believed that the original owners can, as appears to be apprehended, be suffering acutely by the delay of full payment. It is to be presumed that, in accordance with the customs of trade, the owners drew bills for the value of their goods before or at the time of shipment, and, if such bills have been negotiated in the usual way, it is difficult to understand why the drawers should be put to inconvenience on this account, at least before the date when the bills fall due.

7. On an impartial review of the facts it will, His Majesty's Government feel sure, be admitted that no arbitrary interference with American interests has, in regard to these cargoes, occurred, seeing that His Majesty's Government have acted throughout in conformity with the terms of an arrangement agreeable to the interests concerned, and that United States citizens will suffer no pecuniary loss.

8. As regards other American cargoes or portions of cargoes which have been placed in the Prize Court, His Majesty's Government only resort to this measure in cases where either the goods concerned are contraband, or there is evidence that, although ostensibly consigned to a person in a neutral country, they are in reality destined for the enemy, in contravention of the rules of blockade. The right to submit such cases to the public investigation of a judicial tribunal is one which His Majesty's Government can not forego, and they feel convinced that

enlightened opinion in the United States of America can not adversely criticise their course of action in this respect.

9. It is true that a number of these cases have been pending in the Prize Court for some time. This is notably the case in regard to certain vessels carrying large shipments of meat and lard, ostensibly consigned to Scandinavian ports. The United States Government are, however, no doubt aware that much of the delay involved in these instances is due to the fact that negotiations have been carried on for many weeks with a representative of the principal American meat packers for an arrangement designed to limit the importation into neutral countries adjacent to Germany to the quantities actually required in those countries for bona fide home consumption. The American meat packers have demanded, as a part of the settlement to be agreed upon, that His Majesty's Government should buy the cargoes of the several ships now held up in the Prize Court. Hence the delay in bringing these cases to adjudication. It may be added that the ill-success which has so far attended these negotiations is due not to a refusal of His Majesty's Government to entertain the idea of purchase, but to the uncompromising attitude taken up by the American negotiator, who appears unwilling even to discuss any modification of his own demands as regards price. This stage having now been reached, His Majesty's Government have decided to go on with the Prize Court proceedings in these cases, and it is not expected that a decision will be much longer delayed.

10. It may finally be pointed out that the repeated complaints as to the great injury suffered generally by American trade in consequence of the interference due to British naval measures derives little substance from the published American trade returns. A table of figures taken from these returns, and showing the amount of recent American trade with Germany and with neutral countries supplying Germany, is annexed hereto. It certainly tends to disprove any contention that American trade with neutral countries has recently suffered. It will be seen that whereas American exports to Germany and Austria in February, 1915, fell twenty-one million five hundred thousand dollars, as compared with the same month in 1914, American exports to Scandinavia, Holland, and Italy rose by the enormous figure of sixty-one million two hundred thousand dollars.

11. Similar figures for the month of March have not yet reached His Majesty's Government, but they have received statistics for that month of the value of exports and imports through New York as issued by the

collector of that port, and, while pointing out that the large increase in value of exports in 1915 compared with those of 1914 (as shown in the tables annexed), they desire especially to call attention to a separate statement indicating the increase in amount of the exports to Scandinavian and Dutch ports of two commodities only, bacon and lard. These figures show that as against one thousand two hundred and fifty-three boxes of bacon and nine thousand one hundred and eighty-six tierces of lard exported to the ports noted in the above countries in March, 1914, there were exported in March, 1915, thirty-two thousand two hundred and twenty-two boxes of bacon and ninety-five thousand six hundred and seventy-six tierces of lard.

12. His Majesty's Government consider that the abnormal increase of supplies imported by neutral countries as shown in these statistics alone justifies their assumption as to the ultimate destination of many items of cargo consigned to one or other of the countries in question on vessels which they have detained, but they would call attention to the fact that it is only when they believed themselves to be in possession of conclusive evidence of the enemy destination of the cargo that they have seized such cargo, and that American interests, as for instance in the case of cotton, have received especially sympathetic consideration.

[Inclosure 2.]

No. 57189/15.]

FOREIGN OFFICE,

May 15, 1915.

Sir Edward Grey presents his compliments to the United States Ambassador, and with reference to the Foreign Office memorandum No. 57189 of May 14th has the honor to inform His Excellency that the opening statement, to the effect that only one American vessel was then detained in the United Kingdom, did not embrace cotton ships, which are dealt with in subsequent paragraphs of the memorandum.

There were, as His Excellency is aware, two American cotton ships, the *Southerner* and the *Carolyn*, then detained in the United Kingdom.

Sir E. Grey considers that the memorandum of May 14th was not sufficiently explicit on this point, in regard to which he wishes to leave no room for misunderstanding.

Ambassador Page to the British Secretary of State for Foreign Affairs.

[Memorandum.]

AMERICAN EMBASSY,
London, June 3, 1915.

The American Ambassador presents his compliments to His Majesty's Secretary of State for Foreign Affairs and has the honor to acquaint him that he is in receipt of a communication from the consul general in London, in which he requests that he may be informed regarding the amount of raw cocoa and preparations of cocoa exported from Great Britain to Holland, Denmark, Sweden, Norway, and Italy during the four months ending April 30, 1915, as compared with the same period of 1914 and 1913. Mr. Page ventures to hope that should no inconvenience be found in so doing, Sir Edward Grey may be so good as to cause him to be furnished with the desired information in this connection.

Note Verbale from the British Embassy.

BRITISH EMBASSY,
Washington, August 6, 1915.

Comments have reached His Majesty's Government from various quarters that a misapprehension seems to have arisen with regard to the British note of July 31 concerning the steamer *Neches*,¹ which it was asserted had been interpreted as stating that the cargo of the vessel had been seized as a reprisal measure against Germany's submarine policy.

Sir Edward Grey has requested me to explain that the misunderstanding arises no doubt from the brevity of the note. The note admits no illegality of procedure. The seizure was not meant in the nature of a reprisal, but was based solely on the British contention of the absolute legality of the Orders in Council as explained in the note of July 23, to which the *Neches* note refers.

It is also explained that in stating that the British Government does not yet know what steps neutrals have taken against German submarine policy, no reference was intended to the action of the United States

¹ Printed in Special Supplement, July, 1915, p. 162.

Government, but to other neutrals, who have lost more ships than the United States but of whose action nothing is known by the British Government.

It should be further explained that in making reference to the German submarine policy the British Government only desired to point out that from its standpoint it was hardly just or reasonable that it should be asked by neutrals to abandon any of its legal rights while Germany commits illegalities both on Great Britain and on neutrals, though it is admitted and regretted that interference with German trade, however legal, may be inconvenient to neutrals.

The British Secretary of State for Foreign Affairs to Ambassador Page.

FOREIGN OFFICE,
August 13, 1915.

YOUR EXCELLENCY: I have the honour to refer to the memorandum which you were good enough to communicate on the 3d June last, in which you informed me of the desire of the United States consul general in London to be furnished with figures showing the amount of raw cocoa and preparations of cocoa exported from Great Britain to Holland, Denmark, Sweden, Norway, and Italy during the four months ending April 30, 1915, as compared with the same period in 1914 and 1913. Your Excellency will remember that I had the honour to communicate to you tabular statement of these figures on the 16th ultimo.

His Majesty's ambassador at Washington reported on the 22d July that the Acting Councillor of the State Department had referred in conversation to the unfavourable impression created at Washington by reports as to the increase in British exports to northern European neutral ports since the outbreak of war received from Mr. Consul General Skinner, these reports having given figures showing increases in the British exports of some commodities to those countries. I am therefore communicating to Sir C. Spring-Rice statistics showing what the exports of the United Kingdom were in comparison with those of the United States during the first five months of this year, in order that this impression may be removed as soon as possible; but as I hear that statements no doubt inspired by German agents are being circulated in America to the effect that His Majesty's Government are trying to

stop the legitimate trade of the United States with neutral countries in order to capture the trade for the British Empire, and are therefore allowing goods to be exported from the United Kingdom which they have not allowed to be imported into the same countries from the United States, I think it well to inform Your Excellency immediately of the true state of the case, and with this view to invite attention to the following data and figures:

The increased reexport of cotton from the United Kingdom to Norway, Sweden, Denmark, and the Netherlands during the months of January to May, 1915, as compared with the same period in 1914, amounted to 503,995 centals of 100 pounds. The United States exported to the four countries mentioned during this period in 1915 as much as 3,353,638 centals, as compared with 204,177 centals during January to May, 1914, an increase of 3,149,461 centals, or six times the increase in the export of cotton from the United Kingdom.

The above figures for the United Kingdom are taken from the official customs returns; those for the United States have been carefully compiled by the War Trade Department from the manifests of those vessels which actually arrived with cargo from the United States in Scandinavian and Dutch ports during the five months, February to June, 1915, as compared with five-twelfths of the total recorded exports from the United States to those countries in the year ended June 30, 1914. It has been necessary to adopt this method, as the "Monthly Summary of Foreign Commerce," issued by the United States Government, gives very few details with regard to American trade with those countries. It is evident that some shipments must have taken place from the United States to Scandinavia and the Netherlands which could not come within the scope of even the most circumstantial compilation of statistics drawn up from the manifests of examined ships alone, and I would therefore lay particular stress on the fact that the figures thus obtained by the War Trade Department are necessarily understatements of the total amounts actually shipped. But even from the figures thus obtained it is possible to show conclusively how much greater the increases in the American exports to Scandinavian countries and the Netherlands have been than those of Great Britain during the first five months of this year, not only in the case of cotton but in that of almost every other important commodity.

Reexports of rubber from the United Kingdom to Scandinavia and the Netherlands declined from 17,727 centals of 100 pounds in January-

May, 1914, to 16,693 centals in January-May, 1915; on the other hand exports of rubber from the United States to the same destinations increased from 1,579 centals to 5,040 centals. Larger reexports of rubber to the United States from this country have indeed taken place, but all other reexports of rubber have declined during this period, as the following figures show:

United Kingdom—Reexports of rubber

	Centals of 100 pounds		
	Jan.-May, 1914	Jan.-May, 1915	Increase in 1915 over 1914
To all destinations.....	553,864	667,509	*113,645
Of which to United States.....	248,435	418,619	†170,184

It will therefore be seen that this country has actually been supplying more rubber to the United States at the expense of other neutrals, while American exporters have taken advantage of this to ship increased quantities of rubber to Scandinavia and the Netherlands.

In the case of lubricating oils, the increase of United Kingdom exports to Scandinavia and Holland was 703,370 gallons; the increase of the United States exports during the same five months was 3,857,593 gallons, being five times as great as the British increase.

The increase in the reexports of unmanufactured tobacco from the United Kingdom to the same countries and over the same period was 2,937,244 pounds; the corresponding United States increase was 6,081,848 pounds. The British increase is mainly due to the diversion of tobacco grown in the British Dominions from Continental to United Kingdom ports. The reexports of manufactured tobacco from the United Kingdom have actually declined, while exports of this commodity from the United States to Scandinavia and the Netherlands have hitherto been relatively insignificant. It is therefore altogether improbable that the United States can have lost trade in tobacco in consequence of the measures taken by His Majesty's Government.

United Kingdom reexports of cocoa have risen from 2,976,143 pounds in January-May, 1914, to 14,504,013 pounds in January-May, 1915,

* Or 20.5 per cent.

† Or 68.6 per cent.

an increase, in round numbers, of 11,500,000. Exports from the United States for the same months have risen from 12,300 pounds in 1914 to 16,016,000 pounds in 1915, an increase of 16,000,000. These figures speak for themselves.

In the first five months of 1914 the United Kingdom reexports of coffee to the same countries amounted to 80,407 hundredweight, and the exports from the United States to 7,376 hundredweight. In the corresponding five months of 1915 the United Kingdom reexports were 263,488 hundredweight, while the imports from the United States were 285,760 hundredweight, showing that the United States exports, which were formerly much less, are now greater than those of the United Kingdom.

In the case of rice, the increased reexport from the United Kingdom, which amounted to 193,458 hundredweight for the period under review, was entirely due to the diversion to the United Kingdom ports of the large trade in Indian rice formerly carried on through Hamburg and other Continental ports. The exports from the United States have increased from 262 hundredweight in January-May, 1914, to 27,800 hundredweight in January-May, 1915, an increase of 27,538 hundredweight.

The United Kingdom increase in the export of wheat flour to Scandinavia and the Netherlands during January-May, 1915, compared with 1914, was 47,045 hundredweight; the United States increase was 2,555,593 hundredweight for the same period.

For the same period the United Kingdom increase in the export of barley to Scandinavia and the Netherlands was 249,512 hundredweight; the United States increase, 2,016,892 hundredweight.

I could point to many other instances of similar proportionate increases in the exports of the United States to Scandinavia and the Netherlands as compared with exports to the same countries from the United Kingdom during the last five months. In respect to the great majority of articles for which figures of United States trade can be given the increases in this trade are greater, and in some cases very considerably greater, than the increases in the United Kingdom trade.

In many cases increases in United Kingdom reexports are due to the fact that the products of British Indian and Colonial products which formerly went direct to Continental ports, such as Hamburg, Rotterdam, or Copenhagen, are now sent to the United Kingdom and thence distributed to old customers in Scandinavia and the Netherlands.

Among such may be mentioned pepper, cinnamon, and other spices (largely the product of the British East Indies), Indian tea, palm kernels (mainly from British West Africa), and copra (mainly from the Straits Settlements and Australia). The direct trade of the British overseas Dominions with the port of Hamburg alone is very great in normal times.

In many other instances our reëxport trade for the first five months of this year shows a large decline. The following statement gives a few examples of such decreases in reëxports from the United Kingdom to all destinations.

	1915 (5 months).	1914 (5 months).
Tallow, unrefined.....cwt..	190,179	378,926
Quicksilver.....lbs..	258,075	784,650
Machinery:		
Agricultural.....tons..	163	8,396
Sewing machines.....No..	853	6,683
Cotton waste.....lbs..	205,960	469,235
Carpet and carpet rugs.....sq. yds..	58,161	184,105
Silk, thrown.....lbs..	656	15,582
Beef, chilled.....cwt..	3,262	274,151
Meat, preserved.....do..	19,531	61,000
Butter.....do..	19,253	66,340
Bananas.....bunches..	127,217	258,310
Hemp.....tons..	19,399	25,673
Palm oil.....cwt..	177,529	382,513
Gas oil.....galls..	9,800	241,724
Fuel oil.....do..	169,884	515,170

Everything in the statistics I have quoted tends to show that the mercantile community of the United States has made profits proportionately equal to or greater than those of the mercantile community of Great Britain in respect to all those demands which have inevitably arisen in Scandinavia and the Netherlands as a consequence of the closing of German ports. The total volume of the trade of the United States with these countries has increased 300 per cent, as Your Excellency will see from the accompanying table, taken from the United States official "Monthly Summary of Foreign Commerce," which shows the comparative value of the total exports of the United States to Scandinavian countries and the Netherlands during the first five months of

1914 and 1915. The value of the total increase in those exports during this period amounted to \$145,658,000.

I have, etc.,

E. GREY.

VALUE OF UNITED STATES EXPORTS

To—	In January— May, 1914.	In January— May, 1915.	Increase in 1915 over 1914.
Norway.....	\$3,679,000	\$22,478,000	\$18,799,000
Sweden.....	5,875,000	52,217,000	46,342,000
Denmark.....	6,421,000	41,321,000	34,900,000
Netherlands.....	44,114,000	89,731,000	45,617,000
Total.....	60,089,000	205,747,000	145,658,000

*Memorandum from the British Embassy.*¹

BRITISH EMBASSY,
Washington.

It has been frequently suggested and sometimes actually asserted that the seizure of the cargoes consigned by the meat packers of Chicago to Copenhagen and other Scandinavian ports in the four ships which were the subject of the recent proceedings in the prize court² and in the other ships in regard to which these negotiations have taken place, was a seizure effected under orders in council the validity of which is disputed by the Government of the United States, the implication being that in some way these cargoes were seized under the order in council of March 11, 1915. It seems hardly necessary to point out that this was not so. The cargoes were seized for the greater part long before March, 1915, and the ground for the seizure was that they were conditional contraband destined from the first by the packers who shipped them largely for the use of the armies, navies, and Government departments of Germany and Austria, and only sent to neutral ports with the object of concealing their true destination. This is a ground for seizure which has been asserted and upheld by none more strongly than American courts and the leading American authorities on international law for

¹ Received at the Department of State October 12, 1915.

² The text of the decision of the British Prize Court in these cases is printed in the American Journal of International Law for October, 1915 (Vol. 9), p. 979.

over 50 years. That foodstuffs on a ship bound for enemy territory may be seized and condemned if there can be shown to be (in the words of Lord Stowell) a "highly probable" destination for military or naval use has long been a universally recognized and admitted principle of international law, and it was the American courts which first insisted upon the further principle that, if that destination is shown it does not matter that the goods were found upon a ship sailing to a neutral port. In the application of this doctrine—the doctrine of continuous voyage—the British Government had acquiesced at the time of the American Civil War, and the circumstances of modern warfare, the development of international trade and the increase in the rapidity of and the facilities for, transport both by land and sea have made the doctrine the more reasonable and indeed essential, if a belligerent is to be allowed to exercise at all his undoubted right of interrupting the supply of foodstuffs to his enemy's military and naval forces.

At the outbreak of the present war and up to the time when the German methods of warfare had by their reckless disregard of all the principles of law hitherto recognized and all the dictates of ordinary humanity made it necessary to adopt by way of retaliation measures calculated to cut off all German trade it was open to neutrals to continue to supply the civil population of that country openly by consignments to named merchants and dealers in Germany, and if that course had been adopted the case would have assumed a very different complexion and it would then have been, no doubt, for the British Government to establish that the consignees in fact were known to be engaged in supplying the German Government. This, however, was not the course adopted by the Chicago packers. Vast quantities of lard, meat, bacon, and oils, far in excess of any possible requirements of the Scandinavian countries, were shipped to Copenhagen in part to named consignees but for the greater part to the packers' own agents or their order, and it was from the first claimed that all these consignments were shipped on, or with a view to, bona fide sales to neutrals. From the evidence, however, of cablegrams and letters in the possession of the British Government which were ultimately produced in court, it was clear that the packers' agents in these neutral countries and also several of the consignees who purported to be genuine neutral buyers were merely persons engaged by the packers on commission, or sent by the packers from their German branches, for the purpose of insuring the immediate transit of these consignments to Germany. The whole scheme was disclosed in a series of

letters from a Hamburg correspondent of Messrs. Cudahy, who was obviously in touch with the representatives in Hamburg and Rotterdam of practically all the packers. Agents and managers were sent from Germany to Copenhagen where they established themselves in hotels; two of these agents formed themselves into a Danish Importing Company who had an enormous trade: the importance was emphasized of using the names of persons already in the provision trade; neutrals were induced, for a consideration, to lend their names as pretended consignees; careful instructions were given as to the names to be inserted in the bills of lading and other documents; and these agents kept the packers informed from time to time as to the prohibitions against export in the various neutral countries and as to the ports (including Genoa) to which it was most desirable to ship the goods. Some agents were found, on special instructions, to be moving about from place to place in Europe; and in one case the name of a German agent was in the cables changed to the innocent name of "Davis" when it was discovered that the original name was regarded as suspicious by the British censorship. The telegram showed orders given from Rotterdam for delivery to Copenhagen and Scandinavian ports, from Copenhagen for delivery to Swedish and Norwegian ports, and from Rotterdam and Copenhagen for delivery to Genoa; so that it obviously mattered little what the port of delivery was so long as it was conveniently situated for transit to Germany. Offers were, on special instructions, made in German currency, for the convenience, obviously, of German buyers. There were clear indications of consultation with the packers' German houses as to the ports to which goods should be sent. A special cable code was invented as to which, however, nothing more was disclosed than that "Arnhem" meant "ship to Copenhagen." Special and hastily devised arrangements were made for payment by the establishing of large credits in Scandinavian banks, arrangements which from the urgency of the cables connected with them were obviously no part of the ordinary course of the packers' business, and in some cases there were payments which clearly came directly or indirectly from Germany and from the Deutsche Bank. Indeed, it was stated to Messrs. Cudahy by their Hamburg correspondent that German bankers had evidently accumulated large balances in New York, Rotterdam, and Copenhagen; and as to the object of this there could be no doubt. There were indications sometimes of insurance of the goods in Germany, sometimes of precautions taken to insure in other than German companies; but with a few unimportant exceptions no insurance policies

were produced. The Holland American Line was seen to be refusing the packers' shipments, for it required a guarantee against reëxport to Germany which they could not give; and at an early stage the line was approached with a proposal that it should for the convenience and greater safety of the packers, transfer some of its vessels to the American flag; a proposal to which it declined to accede. The consequence was that a special line was formed to engage in this trade. In spite of all this the pretense was stoutly kept up to the end that the whole business was bona fide neutral trade and that the packers had no interest beyond that of selling and consigning to neutral buyers, and it was not till the actual trial that the admission was made on behalf of some of them that a large part of the goods was probably intended to go through to Germany. And there were strong indications that it was not merely a civilian German destination which was contemplated. The German ports to which the goods were going, Hamburg, Lubeck, and Stettin, were all military or naval depots and headquarters of troops; the fat bacon, besides being of value for army rations was, as the British Government were informed, in such demand in Germany as being the raw material of glycerine, which is the most important constituent of explosives. The meat was packed suitably for Army use, and indeed the case of the smoked bacon and Armour's tinned boiled beef was of the kind supplied or offered to the British Army, and on the case put forward by the packers it was necessary to imagine that while engaged in supplying the armies of Great Britain, France, and Russia they had by some inexplicable oversight omitted to turn their attention to the opportunities for enormous profits offered by Germany and Austria. Messrs. Cudahy's Hamburg correspondent expressly stated with regard to the cargo on the four ships whose cases were tried that this information was that most of the goods had long ago been sold to Germany. He reported that Messrs. Morris's German agent was sceptical about the release of the *Alfred Nobel* cargo as it was "too open faced a case of the lard being intended for Germany" and that apparently this same German agent had suggested that the packers should make "a big noise" in the American press, and the picture drawn in these frank communications was one of German agents eagerly awaiting the release of their goods and calculating the prospects of their being promptly passed through Danish and Scandinavian ports to Germany. Yet in spite of all this the claim was put forward and firmly maintained to the end that everything that had been done was perfectly bona fide trade,

but documents which could easily have been produced had this been true were never forthcoming.

With perhaps a few minor exceptions the packers produced no contracts, no invoices, no insurance policies, and no checks or other proof of sale or payments; their affidavits were in the most general terms and were put in at the very last moment, some of them even after the trial had begun, and no attempt was made by any written or other evidence to explain away the damning evidence of the telegrams and letters disclosed by the Crown. The inference was clear and irresistible that no such attempt could be made, and that any written evidence there was would have merely confirmed the strong suspicion, amounting to a practical certainty, that the whole of the operations of shipment to Copenhagen and other neutral ports were a mere mask to cover a determined effort to transmit vast quantities of supplies through to the German and Austrian armies. It is claimed, therefore, that the seizure of all the cargoes was amply justified by the facts known at the time, the facts subsequently discovered and disclosed and the conduct of the packers throughout, and that the British Government required to call in aid nothing but the long-recognized and elementary principles of international law.

The Secretary of State to Ambassador W. H. Page.

DEPARTMENT OF STATE,
Washington, October 21, 1915.

SIR: I desire that you present a note to Sir Edward Grey in the sense of the following:

(1) The Government of the United States has given careful consideration to Your Excellency's notes of January 7,¹ February 10,¹ June 22,¹ July 23,¹ July 31 (2),¹ August 13,² and to a note verbale of the British Embassy of August 6,² relating to restrictions upon American commerce by certain measures adopted by the British Government during the present war. This Government has delayed answering the earlier of these notes in the hope that the announced purpose of His Majesty's Government "to exercise their belligerent rights with every possible

¹ Special Supplement, July, 1915, pp. 60, 65, 141, 157, 162, 163.

² *Supra*, pp. 63, 64.

consideration for the interest of neutrals" and their intention of "removing all causes of avoidable delay in dealing with American cargoes" and of causing "the least possible amount of inconvenience to persons engaged in legitimate trade," as well as their "assurances to the United States Government that they would make it their first aim to minimize the inconveniences" resulting from the "measures taken by the Allied Governments," would in practice not unjustifiably infringe upon the neutral rights of American citizens engaged in trade and commerce. It is, therefore, a matter of regret that this hope has not been realized, but, that, on the contrary, interferences with American ships and cargoes destined in good faith to neutral ports and lawfully entitled to proceed have become increasingly vexatious, causing American shipowners and American merchants to complain to this Government of the failure to take steps to prevent an exercise of belligerent power in contravention of their just rights. As the measures complained of proceed directly from orders issued by the British Government, are executed by British authorities, and arouse a reasonable apprehension that, if not resisted, they may be carried to an extent even more injurious to American interests, this Government directs the attention of His Majesty's Government to the following considerations:

(2) Without commenting upon the statistics presented by His Majesty's Government to show that the export trade of the United States has increased in volume since the war began further than to point out that the comparative values fail to take into account the increased price of commodities resulting from a state of war or to make any allowance for the diminution in the volume of trade which the neutral countries in Europe previously had with the nations at war, a diminution which compelled them to buy in other markets, I will pass directly to the matters which constitute the specific complaints of this Government.

(3) *First.* The detentions of American vessels and cargoes which have taken place since the opening of hostilities have, it is presumed, been pursuant to the enforcement of the Orders in Council, which were issued on August 20 and October 29, 1914, and March 11, 1915, and relate to contraband traffic and to the interception of trade to and from Germany and Austria-Hungary. In practice these detentions have not been uniformly based on proofs obtained at the time of seizure, but many vessels have been detained while search was made for evidence of the contraband character of cargoes or of an intention to evade the non-intercourse measures of Great Britain. The question, consequently, has

been one of evidence to support a belief of—in many cases a bare suspicion of—enemy destination, or occasionally of enemy origin of the goods involved. Whether this evidence should be obtained by search at sea before the vessel or cargo is taken into port, and what the character of the evidence should be, which is necessary to justify the detention, are the points to which I direct Your Excellency's attention.

(4) In regard to search at sea, an examination of the instructions issued to naval commanders of the United States, Great Britain, Russia, Japan, Spain, Germany, and France from 1888 to the beginning of the present war shows that search in port was not contemplated by the Government of any of these countries. On the contrary, the context of the respective instructions shows that search at sea was the procedure expected to be followed by the commanders. All of these instructions impress upon the naval officers the necessity of acting with the utmost moderation—and in some cases commanders are specifically instructed—in exercising the right of visit and search, to avoid undue deviation of the vessel from her course.

(5) An examination of the opinions of the most eminent text writers on the laws of nations shows that they give practically no consideration to the question of search in port, outside of examination in the course of regular prize court proceedings.

(6) The assertion by His Majesty's Government that the position of the United States in relation to search at sea is inconsistent with its practice during the American Civil War is based upon a misconception. Irregularities there may have been at the beginning of that war, but a careful search of the records of this Government as to the practice of its commanders shows conclusively that there were no instances when vessels were brought into port for search prior to instituting prize court proceedings, or that captures were made upon other grounds than, in the words of the American note of November 7, 1914, "evidence found on the ship under investigation and not upon circumstances ascertained from external sources." A copy of the instruction issued to American naval officers on August 18, 1862, for their guidance during the Civil War, is appended.

(7) The British contention that "modern conditions" justify bringing vessels into port for search is based upon the size and seaworthiness of modern carriers of commerce and the difficulty of uncovering the real transaction in the intricate trade operations of the present day. It is believed that commercial transactions of the present time, hampered as

they are by censorship of telegraph and postal communication on the part of belligerents, are essentially no more complex and disguised than in the wars of recent years, during which the practice of obtaining evidence in port to determine whether a vessel should be held for prize proceedings was not adopted. The effect of the size and seaworthiness of merchant vessels upon their search at sea has been submitted to a board of naval experts, which reports that—

At no period in history has it been considered necessary to remove every package of a ship's cargo to establish the character and nature of her trade or the service on which she is bound, nor is such removal necessary. * * *

The facilities for boarding and inspection of modern ships are in fact greater than in former times, and no difference, so far as the necessities of the case are concerned, can be seen between the search of a ship of a thousand tons and one of twenty thousand tons—except possibly a difference in time—for the purpose of establishing fully the character of her cargo and the nature of her service and destination. * * * This method would be a direct aid to the belligerents concerned in that it would release a belligerent vessel overhauling the neutral from its duty of search and set it free for further belligerent operations.

(8) Turning to the character and sufficiency of the evidence of the contraband nature of shipments to warrant the detention of a suspected vessel or cargo for prize proceedings, it will be recalled that when a vessel is brought in for adjudication courts of prize have heretofore been bound by well-established and long-settled practice to consider at the first hearing only the ship's papers and documents, and the goods found on board, together with the written replies of the officers and seamen to standing interrogatories taken under oath, alone and separately, as soon as possible and without communication with or instruction by counsel, in order to avoid possibility of corruption and fraud.

(9) Additional evidence was not allowed to be introduced except upon an order of the court for "further proof," and then only after the cause had been fully heard upon the facts already in evidence or when this evidence furnished a ground for prosecuting the inquiry further. This was the practice of the United States courts during the War of 1812, the American Civil War, and the Spanish-American War, as is evidenced by the reported decisions of those courts, and has been the practice of the British prize courts for over a century. This practice has been changed by the British prize court rules adopted for the present war by the Order in Council of August 5. Under these new rules there is no longer a "first hearing" on the evidence derived from the ship, and the prize

court is no longer precluded from receiving extrinsic evidence for which a suggestion has not been laid in the preparatory evidence. The result is, as pointed out above, that innocent vessels or cargoes are now seized and detained on mere suspicion while efforts are made to obtain evidence from extraneous sources to justify the detention and the commencement of prize proceedings. The effect of this new procedure is to subject traders to risk of loss, delay, and expense so great and so burdensome as practically to destroy much of the export trade of the United States to neutral countries of Europe.

(10) In order to place the responsibility for the delays of vessels and cargoes upon American claimants, the Order in Council of October 29, 1914, as pointed out in the British note of February 10, seeks to place the burden of proof as to the noncontraband character of the goods upon the claimant in cases where the goods are consigned "to order" or the consignee is not named or the consignee is within enemy territory. Without admitting that the *onus probandi* can rightfully be made to rest upon the claimant in these cases, it is sufficient for the purposes of this note to point out that the three classes of cases indicated in the Order in Council of October 29 apply to only a few of the many seizures or detentions which have actually been made by British authorities.

(11) The British contention that in the American Civil War the captor was allowed to establish enemy destination by "all the evidence at his disposal," citing the *Bermuda* case (3 Wallace, 515), is not borne out by the facts of that case. The case of the *Bermuda* was one of "further proof," a proceeding not to determine whether the vessel should be detained and placed in a prize court, but whether the vessel, having been placed in prize court, should be restored or condemned. The same ruling was made in the case of the *Sir William Peel* (5 Wallace, 517). These cases, therefore, can not be properly cited as supporting the course of a British captor in taking a vessel into port, there to obtain extrinsic evidence to justify him in detaining the vessel for prize proceedings.

(12) The further contention that the greatly increased imports of neutral countries, adjoining Great Britain's enemies, raise a presumption that certain commodities, such as cotton, rubber, and others more or less useful for military purposes, though destined for those countries, are intended for reexportation to the belligerents who can not import them directly, and that this fact justifies the detention for the purpose of examination of all vessels bound for the ports of those neutral coun-

tries, notwithstanding the fact that most of the articles of trade have been placed on the embargo lists of those countries, can not be accepted as laying down a just or legal rule of evidence. Such a presumption is too remote from the facts and offers too great opportunity for abuse by the belligerent, who could, if the rule were adopted, entirely ignore neutral rights on the high seas and prey with impunity upon neutral commerce. To such a rule of legal presumption this Government can not accede, as it is opposed to those fundamental principles of justice which are the foundation of the jurisprudence of the United States and Great Britain.

(13) Before passing from the discussion of this contention as to the presumption raised by increased importations to neutral countries, this Government directs attention to the fact that His Majesty's Government admit that the British exports to those countries have also materially increased since the present war began. Thus Great Britain concededly shares in creating a condition which is relied upon as a sufficient ground to justify the interception of American goods destined to neutral European ports. If British exports to those ports should be still further increased, it is obvious that, under the rule of evidence contended for by the British Government, the presumption of enemy destination could be applied to a greater number of American cargoes, and American trade would suffer to the extent that British trade benefited by the increase. Great Britain can not expect the United States to submit to such manifest injustice or to permit the rights of its citizens to be so seriously impaired.

(14) When goods are clearly intended to become incorporated in the mass of merchandise for sale in a neutral country, it is an unwarranted and inquisitorial proceeding to detain shipments for examination as to whether those goods are ultimately destined for the enemy's country or use. Whatever may be the conjectural conclusions to be drawn from trade statistics, which, when stated by value, are of uncertain evidence as to quantity, the United States maintains the right to sell goods into the general stock of a neutral country, and denounces as illegal and unjustifiable any attempt of a belligerent to interfere with that right on the ground that it suspects that the previous supply of such goods in the neutral country, which the imports renew or replace, has been sold to an enemy. That is a matter with which the neutral vendor has no concern and which can in no way affect his rights of trade. Moreover, even if goods listed as conditional contraband are destined

to an enemy country through a neutral country, that fact is not in itself sufficient to justify their seizure.

(15) In view of these considerations, the United States, reiterating its position in this matter, has no other course but to contest seizures of vessels at sea upon conjectural suspicion and the practice of bringing them into port for the purpose, by search or otherwise, of obtaining evidence, for the purpose of justifying prize proceedings, of the carriage of contraband or of breaches of the Order in Council of March 11. Relying upon the regard of the British Government for the principles of justice so frequently and uniformly manifested prior to the present war, this Government anticipates that the British Government will instruct their officers to refrain from these vexations and illegal practices.

(16) *Second.* The Government of the United States further desires to direct particular attention to the so-called "blockade" measures imposed by the Order in Council of March 11. The British note of July 23, 1915, appears to confirm the intention indicated in the note of March 15, 1915, to establish a blockade so extensive as to prohibit trade with Germany or Austria-Hungary, even through the ports of neutral countries adjacent to them. Great Britain, however, admits that it should not, and gives assurances that it will not, interfere with trade with the countries contiguous to the territories of the enemies of Great Britain. Nevertheless, after over six months' application of the "blockade" order, the experience of American citizens has convinced the Government of the United States that Great Britain has been unsuccessful in her efforts to distinguish between enemy and neutral trade. Arrangements have been made to create in these neutral countries special consignees, or consignment corporations, with power to refuse shipments and to determine when the state of the country's resources requires the importation of new commodities. American commercial interests are hampered by the intricacies of these arrangements, and many American citizens justly complain that their *bona fide* trade with neutral countries is greatly reduced as a consequence, while others assert that their neutral trade, which amounted annually to a large sum, has been entirely interrupted.

(17) It makes this practice even more harassing to neutral traders that the British authorities require a consignor to prove that his shipments are not bound to an enemy of Great Britain, even when the articles are on the embargo list of the neutral country to which they are destined, and that notwithstanding the assertion in the last Brit-

ish note that interference with such trade by a belligerent can only take place "provided, of course, that he (the belligerent) can establish" that the commerce is with the enemy.

(18) While the United States Government was at first inclined to view with leniency the British measures which were termed in the correspondence but not in the Order in Council of March 11 a "blockade," because of the assurances of the British Government that inconvenience to neutral trade would be minimized by the discretion left to the courts in the application of the Order in Council and by the instructions which it was said would be issued to the administrative and other authorities having to do with the execution of the so-called "blockade" measures, this Government is now forced to the realization that its expectations, which were fully set forth in its note of March 30, were based on a misconception of the intentions of the British Government. Desiring to avoid controversy and in the expectation that the administration of the Order in Council would conform to the established rules of international law, this Government has until now reserved the question of the actual validity of the Order in Council of March 11, in so far as it is considered by the Government of Great Britain to establish a blockade within the meaning of that term as understood in the law and the practice of nations; but in the circumstances now developed it feels that it can no longer permit the validity of the alleged blockade to remain unchallenged.

(19) The Declaration of Paris in 1856, which has been universally recognized as correctly stating the rule of international law as to blockade, expressly declares that "blockades, in order to be binding, must be effective; that is to say, maintained by force sufficient really to prevent access to the coast of the enemy." The effectiveness of a blockade is manifestly a question of fact. It is common knowledge that the German coasts are open to trade with the Scandinavian countries and that German naval vessels cruise both in the North Sea and the Baltic and seize and bring into German ports neutral vessels bound for Scandinavian and Danish ports. Furthermore, from the recent placing of cotton on the British list of contraband of war, it appears that the British Government have themselves been forced to the conclusion that the blockade is ineffective to prevent shipments of cotton from reaching their enemies, or else that they are doubtful as to the legality of the form of blockade which they have sought to maintain.

(20) Moreover, it is an essential principle which has been universally accepted that a blockade must apply impartially to the ships of all nations. This was set forth in the Declaration of London, is found in the prize rules of Germany, France, and Japan, and has long been admitted as a basic principle of the law of blockade. This principle, however, is not applied in the present British "blockade," for, as above indicated, German ports are notoriously open to traffic with the ports of Denmark, Norway, and Sweden. So strictly has this principle been enforced in the past that in the Crimean War the Judicial Committee of the Privy Council on appeal laid down, that if belligerents themselves trade with blockaded ports they can not be regarded as effectively blockaded. (*The Franciska*, Moore, P. C., 56.) This decision has special significance at the present time, since it is a matter of common knowledge that Great Britain exports and re-exports large quantities of merchandise to Norway, Sweden, Denmark, and Holland, whose ports, so far as American commerce is concerned, she regards as blockaded. In fact, the British note of August 13 itself indicates that the British exports of many articles, such as cotton, lubricating oil, tobacco, cocoa, coffee, rice, wheat flour, barley, spices, tea, copra, etc., to these countries have greatly exceeded the British exports of the same articles for the corresponding period of 1914. The note also shows that there has been an important British trade with these countries in many other articles, such as machinery, beef, butter, cotton waste, etc.

(21) Finally, there is no better settled principle of the law of nations than that which forbids the blockade of neutral ports in time of war. The Declaration of London, though not regarded as binding upon the signatories because not ratified by them, has been expressly adopted by the British Government without modification as to blockade in the British Order in Council of October 29, 1914. Article 18 of the Declaration declares specifically that "The blockading forces must not bar access to neutral ports or coasts." This is, in the opinion of this Government, a correct statement of the universally accepted law as it exists to-day and as it existed prior to the Declaration of London. The meaning of this statement is elucidated by Mr. Renault in the report of the drafting committee upon the convention, in which he states:

This rule has been thought necessary the better to protect the commercial interests of neutral countries; it completes article 1, according to which a blockade must not

extend beyond the ports and coasts of the enemy, which implies that, as it is an operation of war, it must not be directed against a neutral port, *in spite of the importance to a belligerent of the part played by that port in supplying his adversary.*

As the conference assembled at London upon the invitation of the British Government, it is important to recall the instruction of Sir Edward Grey to the British delegates, "setting out the views of His Majesty's Government, founded on the decisions of the British courts," in which he says:

A blockade must be confined to the ports and coast of the enemy, but it may be instituted of one port or of several ports or of the whole of the seaboard of the enemy. It may be instituted to prevent the ingress only or egress only, or both.

He added:

Where the ship does not intend to proceed to the blockaded port, the fact that goods on board are to be sent on by sea or by inland transport is no ground for condemnation.

In support of this announcement, Sir Edward Grey referred to several decisions of British prize courts, among which an early one of 1801 held that goods shipped from London to Emden, thence inland or by canal to Amsterdam, then blockaded by sea, were not subject to condemnation for breach of blockade. (*Jonge Pieter*, 4 C. R., 79.) This has been the rule for a century, so that it is scarcely necessary to recall that the *Matamoras* cases, well known to the British Government, support the same rule, that neutral ports may not be blockaded, though "trade with unrestricted inland commerce between such a port and the enemy's territory impairs undoubtedly, and very seriously impairs, the value of a blockade of the enemy's coast."

(22) Without mentioning the other customary elements of a regularly imposed blockade, such as notification of the particular coast line invested, the imposition of the penalty of confiscation, etc., which are lacking in the present British "blockade" policy, it need only be pointed out that, measured by the three universally conceded tests above set forth, the present British measures can not be regarded as constituting a blockade in law, in practice, or in effect.

(23) It is incumbent upon the United States Government, therefore, to give the British Government notice that the blockade, which

they claim to have instituted under the Order in Council of March 11, can not be recognized as a legal blockade by the United States.

(24) Since the Government of Great Britain has laid much emphasis on the ruling of the Supreme Court of the United States in the *Springbok* case, that goods of contraband character seized while going to the neutral port of Nassau, though actually bound for the blockaded ports of the south, were subject to condemnation, it is not inappropriate to direct attention to the British view of this case in England prior to the present war, as expressed by Sir Edward Grey in his instructions to the British delegates to the London Conference in 1908:

It is exceedingly doubtful whether the decision of the Supreme Court was in reality meant to cover a case of blockade-running in which no question of contraband arose. Certainly if such was the intention, the decision would *pro tanto* be in conflict with the practice of the British courts. His Majesty's Government sees no reason for departing from that practice, and you should endeavor to obtain general recognition of its correctness.

It may be pointed out also that the circumstances surrounding the *Springbok* case were essentially different from those of the present day to which the rule laid down in that case is sought to be applied. When the *Springbok* case arose the ports of the Confederate States were effectively blockaded by the naval forces of the United States, though no neutral ports were closed, and a continuous voyage through a neutral port required an all-sea voyage terminating in an attempt to pass the blockading squadron.

(25) *Third.* It appears to be the position of Great Britain that if, as the United States alleges, American citizens or American interests are directly and adversely affected by the British policies of contraband and nonintercourse, resulting in interference with ships and cargoes, they should seek redress in the prize courts which the British Government have established, and that, pending the exhaustion of such legal remedies with the result of a denial of justice, the British Government "can not continue to deal through the diplomatic channels with the individual cases."

(26) It is declared that this was the course followed by the United States during the American Civil War and the Spanish War, and that both countries have supported the practice by allowing their prize court decisions, when shown to be unjust or inadequate, to be reviewed by an

international tribunal, as was done under the treaties of 1794 and 1871. The ground upon which this contention is put forth, and the results which would follow, if the course of procedure suggested were accepted, give the impression that His Majesty's Government do not rely upon its soundness or strength. Nevertheless, since it has been advanced, I can not refrain from presenting certain considerations which will show that the proposed course embodies the form rather than the substance of redress. The cases which the British Government would have claimants present to their prize courts are essentially different from cases arising wholly within the jurisdiction of a foreign country. They result from acts committed by the British naval authorities upon the high seas, where the jurisdiction over neutral vessels is acquired solely by international law. Vessels of foreign nationality, flying a neutral flag and finding their protection in the country of that flag, are seized without facts warranting a reasonable suspicion that they are destined to blockaded ports of the enemy or that their cargoes are contraband, although the possession of such facts is, by international law, essential to render a seizure legal. The officers appear to find their justification in the Orders in Council and regulations of the British Government, in spite of the fact that in many of the present cases the Orders in Council and the regulations for their enforcement are themselves complained of by claimants as contrary to international law. Yet the very courts which, it is said, are to dispense justice to dissatisfied claimants, are bound by the Orders in Council. This is unmistakably indicated to be the case in the British note of July 31, which states that—

British prize courts "according to the ancient form of commission under which they sit are to determine cases according to the course of admiralty and the law of nations and the statutes, rules, and regulations for the time being in force in that behalf."

This principle, the note adds, has recently been announced and adhered to by the British prize court in the case of the *Zamora*. It is manifest, therefore, that, if prize courts are bound by the laws and regulations under which seizures and detentions are made, and which claimants allege are in contravention of the law of nations, those courts are powerless to pass upon the real ground of complaint or to give redress for wrongs of this nature. Nevertheless, it is seriously suggested that claimants are free to request the prize court to rule upon a claim of conflict between an Order in Council and a rule of international law. How

can a tribunal fettered in its jurisdiction and procedure by municipal enactments declare itself emancipated from their restrictions and at liberty to apply the rules of international law with freedom? The very laws and regulations which bind the court are now matters of dispute between the Government of the United States and that of His Britannic Majesty. If Great Britain followed, as she declares that she did, the course of first referring claimants to local remedies in cases arising out of American wars, it is presumed that she did so because of her knowledge or understanding that the United States had not sought to limit the jurisdiction of its courts of prize by instructions and regulations violative of the law and practice of nations, or open to such objection.

(27) The British note of February 10 states that the British Government in the American Civil War—

in spite of remonstrances from many quarters, placed full reliance on the American prize courts to grant redress to the parties interested in cases of alleged wrongful capture by American ships of war and put forward no claim until the opportunity for redress in those courts had been exhausted.

The Government of the United States recalls that during the progress of that war Great Britain, in several instances, demanded through diplomatic channels damages for seizures and detentions of British ships alleged to have been made without legal justification. Among these may be mentioned the cases of the *Magicienne*, the *Don Jose*, the *Labuan*, and the *Saxon*. Two of these cases were, at the time the demands were made, before American prize courts for adjudication. It is understood also that during the Boer War, when British authorities seized the German vessels, the *Hertzog*, *The General*, and *The Bundesrath*, and released them without prize proceedings, compensation for damages suffered was arranged through diplomatic channels.

(28) There is, furthermore, a real and far-reaching injury for which prize courts offer no means of reparation. It is the disastrous effect of the methods of the allied Governments upon the general right of the United States to enjoy its international trade free from unusual and arbitrary limitations imposed by belligerent nations. Unwarranted delay and expense in bringing vessels into port for search and investigation upon mere suspicion has a deterrent effect upon trade ventures, however lawful they may be, which can not be adequately measured in damages. The menace of interference with legal commerce causes vessels to be withdrawn from their usual trade routes and insurance on vessels and

cargoes to be refused, while exporters for the same reason are unable or unwilling to send their goods to foreign markets and importers dare not buy commodities abroad because of fear of their illegal seizure or because they are unable to procure transportation. For such injuries there can be no remedy through the medium of courts established to adjust claims for goods detained or condemned. For specific injuries suffered by private interests prize courts, if they are free to apply the law of nations, might mete out an adequate indemnity, but for the injury to the trade of a nation by the menace of unwarranted interference with its lawful and established pursuit there can manifestly be found no remedy in the prize courts of Great Britain, to which United States citizens are referred for redress.

(29) There is another ground why American citizens can not submit their wrongs arising out of undue detentions and seizures to British prize courts for reparation which I can not pass over unnoticed. It is the manner in which British courts obtain jurisdiction of such cases. The jurisdiction over merchant vessels on the high seas is that of the nation whose flag it rightfully flies. This is a principle of the law and practice of nations fundamental to the freedom of the high seas. Municipal enactments of a belligerent power can not confer jurisdiction over or establish rules of evidence governing the legality of seizures of vessels of neutral nationality on the high seas. International law alone controls the exercise of the belligerent right to seize and detain such vessels. Municipal laws and regulations in violation of the international rights of another nation, can not be extended to the vessels of the latter on the high seas so as to justify a belligerent nation bringing them into its ports, and, having illegally brought them within its territorial jurisdiction, compelling them to submit to the domestic laws and regulations of that nation. Jurisdiction obtained in such a manner is contrary to those principles of justice and equity which all nations should respect. Such practice should invalidate any disposition by a municipal court of property thus brought before it. The Government of the United States has, therefore, viewed with surprise and concern the attempt of His Majesty's Government to confer upon the British prize courts jurisdiction by this illegal exercise of force in order that these courts may apply to vessels and cargoes of neutral nationalities, seized on the high seas, municipal laws and orders which can only rightfully be enforceable within the territorial waters of Great Britain, or against vessels of British nationality when on the high seas.

(30) In these circumstances the United States Government feels that it can not reasonably be expected to advise its citizens to seek redress before tribunals which are, in its opinion, unauthorized by the unrestricted application of international law to grant reparation, nor to refrain from presenting their claims directly to the British Government through diplomatic channels.

(31) This Government is advised that vessels and cargoes brought in for examination prior to prize proceedings are released only upon condition that costs and expenses incurred in the course of such unwarranted procedure, such as pilotage, wharfage, demurrage, harbor dues, warehouseage, unloading costs, etc., be paid by the claimants or on condition that they sign a waiver of right to bring subsequent claims against the British Government for these exactions. This Government is loath to believe that such ungenerous treatment will continue to be accorded American citizens by the Government of His Britannic Majesty, but in order that the position of the United States Government may be clearly understood, I take this opportunity to inform Your Excellency that this Government denies that the charges incident to such detentions are rightfully imposed upon innocent trade or that any waiver of indemnity exacted from American citizens under such conditions of duress can preclude them from obtaining redress through diplomatic channels or by whatever other means may be open to them.

(32) Before closing this note, in which frequent reference is made to contraband traffic and contraband articles, it is necessary, in order to avoid possible misconstruction, that it should be clearly understood by His Majesty's Government that there is no intention in this discussion to commit the Government of the United States to a policy of waiving any objections which it may entertain as to the propriety and right of the British Government to include in their list of contraband of war certain articles which have been so included. The United States Government reserves the right to make this matter the subject of a communication to His Majesty's Government at a later day.

(33) I believe it has been conclusively shown that the methods sought to be employed by Great Britain to obtain and use evidence of enemy destination of cargoes bound for neutral ports and to impose a contraband character upon such cargoes are without justification; that the blockade, upon which such methods are partly founded, is ineffective, illegal, and indefensible; that the judicial procedure offered as a means of reparation for an international injury is inherently defective for the

purpose; and that in many cases jurisdiction is asserted in violation of the law of nations. The United States, therefore, can not submit to the curtailment of its neutral rights by these measures, which are admittedly retaliatory, and therefore illegal, in conception and in nature, and intended to punish the enemies of Great Britain for alleged illegalities on their part. The United States might not be in a position to object to them if its interests and the interests of all neutrals were unaffected by them, but, being affected, it can not with complacency suffer further subordination of its rights and interests to the plea that the exceptional geographic positions of the enemies of Great Britain require or justify oppressive and illegal practices.

(34) The Government of the United States desires, therefore, to impress most earnestly upon His Majesty's Government that it must insist that the relations between it and His Majesty's Government be governed, not by a policy of expediency, but by those established rules of international conduct upon which Great Britain in the past has held the United States to account when the latter nation was a belligerent engaged in a struggle for national existence. It is of the highest importance to neutrals not only of the present day but of the future that the principles of international right be maintained unimpaired.

(35) This task of championing the integrity of neutral rights, which have received the sanction of the civilized world against the lawless conduct of belligerents arising out of the bitterness of the great conflict which is now wasting the countries of Europe, the United States unhesitatingly assumes, and to the accomplishment of that task it will devote its energies, exercising always that impartiality which from the outbreak of the war it has sought to exercise in its relations with the warring nations.

I enclose as supplements to this instruction the United States Navy Order of August 18, 1862, and a statement regarding vessels detained by British authorities. These two documents should be transmitted as enclosures in your note to Sir Edward Grey.

I am, etc.,

ROBERT LANSING.

Enclosures:

United States Navy Order of August 18, 1862, and Statement regarding vessels detained by British authorities.

APPENDIX No. 1.

INSTRUCTIONS OF THE SECRETARY OF THE NAVY TO FLAG OFFICERS COMMANDING SQUADRONS AND OFFICERS COMMANDING CRUISERS, RELATIVE TO THE RIGHT OF SEARCH.

NAVY DEPARTMENT, *August 18, 1862.*

SIR: Some recent occurrences in the capture of vessels, and matters pertaining to the blockade, render it necessary that there should be a recapitulation of the instructions heretofore from time to time given, and also of the restrictions and precautions to be observed by our squadrons and cruisers.

It is essential, in the remarkable contest now waging, that we should exercise great forbearance, with great firmness, and manifest to the world that it is the intention of our Government, while asserting and maintaining our own rights, to respect and scrupulously regard the rights of others. It is in this view that the following instructions are explicitly given:

First. That you will exercise constant vigilance to prevent supplies of arms, munitions, and contraband of war from being conveyed to the insurgents, but that under no circumstances will you seize any vessel within the waters of a friendly nation.

Secondly. That, while diligently exercising the right of visitation on all suspected vessels, you are in no case authorized to chase and fire at a foreign vessel without showing your colors and giving her the customary preliminary notice of a desire to speak and visit her.

Thirdly. That when that visit is made, the vessel is not then to be seized without a search carefully made, so far as to render it reasonable to believe that she is engaged in carrying contraband of war for or to the insurgents, and to their ports directly or indirectly by transshipment, or otherwise violating the blockade; and that if, after visitation and search, it shall appear to your satisfaction that she is in good faith and without contraband, actually bound and passing from one friendly or so-called neutral port to another, and not bound or proceeding to or from a port in the possession of the insurgents, then she can not be lawfully seized.

Fourthly. That, to avoid difficulty and error in relation to papers which strictly belong to the captured vessel, and mails that are carried, or parcels under official seals, you will, in the words of the law, "preserve all the papers and writings found on board and transmit the whole of the originals unmutilated to the judge of the district to which such prize is ordered to proceed"; but official seals, or locks, or fastenings of foreign authorities, are in no case, nor on any pretext, to be broken, or parcels covered by them read by any naval authorities, but all bags or other things covering such parcels, and duly seized and fastened by foreign authorities, will be, in the discretion of the United States officer to whom they may come, delivered to the consul, commanding naval officer, or legation of the foreign government, to be opened, upon the understanding that whatever is contraband or important as evidence concerning the character of a captured vessel will be remitted to the prize court, or to the Secretary of State at Washington, or such sealed bag or parcels may be at once forwarded to this Department, to the end that the proper authorities of the foreign Government may receive the same without delay.

You are specially informed that the fact that a suspicious vessel has been indicated to you as cruising in any limit which has been prescribed by this Department does not in any way authorize you to depart from the practice of the rules of visitation, search, and capture prescribed by the law of nations.

Very respectfully,

GIDEON WELLES,
Secretary of the Navy.

APPENDIX No. 2.

STATEMENT REGARDING VESSELS DETAINED BY BRITISH AUTHORITIES.

September 10, 1915.

(1) Vessels whose cargoes and papers have been of such a character as to require but brief time for examination, have been held in British ports, according to this Government's information, for prolonged periods, in some instances for more than a month, and then released without the institution of prize court proceedings.

The steamer *Chester*, which sailed from Baton Rouge for Rotterdam with a cargo of illuminating oil, was taken into Falmouth September 21, 1914, and held until November 4 of that year.

The steamer *Ocean*, carrying the same kind of a cargo, from New York to Rotterdam, was taken into Plymouth September 23, 1914, and similarly released November 5.

The steamer *Charlois* and the steamer *New York*, carrying similar cargoes, were taken into British ports on September 30 and October 12, 1914, respectively, and similarly released on October 27.

The steamers *American* and *Rotterdam*, carrying cargoes of oil to Rotterdam, were also detained under conditions similar to those of the vessels just mentioned in the fall of 1914.

The steamer *Christian Knudsen*, carrying a cargo of oil in bulk, consigned to a Danish corporation in Copenhagen, was brought into the port of Kirkwall, detained for 11 days and then released.

Vessels carrying oil from the United States to long-established markets in Scandinavian countries have repeatedly been detained without being sent to the prize court for adjudication. Among them may be mentioned the *Brindilla*, the *Platuria*, the *Wico*, the *Polarine*, the *Pioneer*, the *Llama*, the *Muskogee*, and the *John D. Rockefeller*.

The steamer *Denver*, which carried a full cargo of cotton from Norfolk to Bremen and which had been loaded under the supervision of a British consular officer, was taken into Kirkwall in January last, as the Department was informed by the British Government, just to examine her papers and to verify her cargo.

The *George W. Hawley* was held for a month because she refused to comply with a requirement of the British authorities to discharge a single shipment, the illegal destination of which does not appear to have been disclosed by any evidence. The vessel carried a mixed cargo, including a shipment of oil. The British authorities insisted that the vessels should discharge the oil, which, the shipper represented, was consigned to one of its long-established agents in Sweden. Finally it was announced that the vessel would be released as an act of grace.

The steamer *Wico* was held by the British authorities last March. This Government was advised that the British Minister at Stockholm had informed the Swedish Foreign Office that the vessel had arrived in a British port with a full cargo of oil for a concern in Stockholm, and that, in view of the recent seizure by a German man-of-war of the steamship *Bryssel* and her cargo, the British Government required complete assurances from the Swedish Government before the *Wico* could be allowed to proceed to destination, that she would not share the fate of the *Bryssel*.

Subsequently this Government was informed that the vessel had been allowed to proceed, but that the British Government felt that, in the event of further cargoes going to Stockholm being seized by German ships, the whole question of permitting oil cargoes to proceed to that destination would have to be seriously reconsidered.

The steamer *Llama*, carrying a cargo of oil to a Scandinavian port, was taken into Kirkwall and subsequently released on June 5 last. After departing from Kirkwall the ship was again arrested on June 6, and although the officer of the war vessel which seized the *Llama* apparently was shown the ship's release papers, he placed a prize crew on board and ordered the vessel to Aberdeen and thence to Leith, where she was finally released on June 12, although she could not proceed until June 15, owing to a shortage of coal.

(2) Vessels have been held until they have reconsigned their cargoes to a consignee in a neutral country designated by the British Government.

The steamer *Seguranca*, which carried a general cargo from New York to the Netherlands, was detained at a great loss to the owners of the vessel and to the shippers in a British port for the greater part of last April, in order that her cargo might be reconsigned to the Netherlands Oversea Trust. The manifest showed that the entire cargo was consigned to named consignees in the Netherlands and was accompanied by a certificate of the British consul general in New York, stating that the loading was supervised by his inspector and that the vessel contained no cargo other than that specified in the manifest. A large part of the cargo, consisting of fresh fruit stored in the hold of the vessel, was subject to decay with great rapidity.

A similar requirement was imposed on the steamer *F. J. Lisman*, which during last June was detained at London. It appears that, after a prolonged detention of the ship of over a month, representatives of the shippers were compelled to discharge both contraband and non-contraband articles, and that the captain and the shippers, finding their efforts to comply with the requirements of the British authorities hopeless, abandoned the voyage.

The steamers *A. A. Raven* and *Vitalia*, carrying articles listed as conditional contraband, were detained in a British port in March last until the goods shipped to specified consignees in Holland could be consigned to the Netherlands Oversea Trust.

The steamer *Neches* was detained last May for about two weeks in

order that a shipment of cotton destined for Rotterdam might be consigned to the Netherlands Oversea Trust.

The steamer *Zzandjik* was detained last June, as the Department was informed, while the British minister at The Hague made inquiries as to whether the Netherlands Oversea Trust had accepted the consignment of the cargo.

(3) Detentions have been made without evidence amounting to probable cause. The steamer *Annam*, which was detained at Kirkwall last April, carried a cargo of food products from the United States to Swedish ports. She was detained owing to a "suspicion," as the British Government stated, that a part of its cargo was destined for Germany.

The steamer *Dronning Olga* was detained at Kirkwall in April last and the cargo, which consisted of cotton and food products, was placed in the prize court on the ground, as the Department was informed by the British Government, that it was "believed" that it was ultimately destined for Germany.

The steamer *Hilding*, which sailed from New York for Copenhagen with a general cargo consisting largely of food products, was seized and taken into Leith last April, and this Government was informed that the cargo has been seized as contraband with the expectation of holding it under the Order in Council of March 11, 1915, if the charge that the goods were contraband should fail.

Numerous similar instances might be cited.

The steamers *Christian Knudsen* and *Platuria*, carrying oil from New York to Denmark, were detained by the British authorities last fall, taken into British ports, and held until the British Government, as they stated, could make an investigation as to the destination of the cargo. Furthermore, this Government was informed that the vessels had been detained pending the receipt of guarantees from Denmark against the exportation of the cargoes, and that the orders were given for the release of the vessels on the receipt of satisfactory guarantees.

The steamer *Brindilla*, which sailed from New York October 13 last with a cargo of oil for Alexandria, was taken into port at Halifax and later released, as the Department was informed, when the British authorities received information that the ship's cargo was expected at Alexandria.

The steamer *Ambra* was taken into a British port in July last, and this Government was informed that this vessel was held pending inquiries that had been instituted concerning destination of certain

items of her cargo. About a week later the vessel was allowed to proceed.

In July last this Government was informed by the British Government that the prolonged detention of the oil steamers *Polarine*, *Platuria*, and *Pioneer* was due to the fact that His Majesty's Government's attention had latterly been drawn to the very large quantities of oil which had been shipped to Scandinavian countries during the last few months; that there had been every reason to suspect that some of the oil was destined for enemy countries; and that the arrival of the steamers in quick succession necessitated the institution of inquiries as to the ultimate destination of the oil.

The owners of these vessels and their cargoes complained to the Government of the United States against their detention, stating that the vessels carried the usual cargoes consigned in good faith to long-established subsidiaries in neutral countries, and further representing that, since supplies from Russia and Roumania had been prevented from entering Scandinavian ports, a large increase of business with them had been expected, but it had been found that during the first five months of the year 1915 total shipments of all petroleum products to these countries were less than for the same period last year, although business in previous years had steadily increased.

(4) Vessels have been held, according to statements of the British Government, because of the manner in which shipments have been consigned.

The steamer *Einerjarl* was brought into Kirkwall last May and its cargo of cottonseed cake, shipped from Newport News to Denmark, which the shippers represented was to be used exclusively for consumption in Denmark, was seized. This Government was informed that the cargo was discharged because it was consigned "to order."

The steamers *Alfred*, *Nobel*, *Bjorstjerne*, *Bjornsen*, and *Friedland* were seized last autumn because their cargoes were consigned "to order."

The shipments on the steamers *America* and *Artemis* have been placed in prize court under the Order in Council of March 11, 1915, because, the goods being consigned by the shippers to themselves, there was no guarantee of their ultimate destination.

(5) Goods have been seized by the British Government on the ground, as this Government has been informed, that the country to which they were shipped had not prohibited their export.

In the fall of the year 1914 copper shipped from the United States

to Sweden on the steamers *Francisco*, *Antares*, *Idaho*, *Tyr*, and *Toronto* was seized by the British authorities, because, as the British Government stated, the Swedish Government had not yet prohibited the re-exportation of copper from Sweden.

A consignment of rubber on the Swedish ship *Zamora* had been placed in prize court last January, because, as the British Government stated, of the absence of a comprehensive prohibition on the exportation of rubber in all its forms from Denmark.

(6) The British authorities have repeatedly seized articles classified as contraband, articles classified as conditional contraband, as well as noncontraband goods, shipped to Scandinavian countries, to the Netherlands, and to Italy, then neutral, although the re-exportation of such commodities from these countries had been forbidden.

In December last the steamer *Tellus* was ordered to discharge a shipment of copper shipped from New York directly to a consignee in Milan, Italy, although by an Italian decree of November 13, 1914, the exportation of goods shipped in this manner was forbidden.

The steamer *Joseph W. Fordney* was seized 4 miles off the coast of Norway and, in charge of a prize crew, brought into Kirkwall April 8 last. The ship's manifest showed that the cargo consisted entirely of cattle fodder consigned to a person in Malmo, Sweden. It appeared, from information presented to this Government, that an affidavit regarding the character and destination of the cargo, made by the shipper of the entire cargo, was attached to the bill of lading, and that this affidavit contained a certification by the British consul general and Swedish consul and also a statement by the latter to the effect that the exportation from Sweden of the goods of which the cargo consisted was prohibited. The vessel was brought into a British port and her cargo discharged. This Government was informed by the British Government that, apart from the uncertainty of the address of the consignee of the cargo of this vessel, His Majesty's Government had evidence that the cargo was not destined for bona fide Swedish consumption but was intended for Germany.

Numerous other similar instances might be cited, including those of the detention of vessels carrying oil to Scandinavian ports which have been mentioned.

(7) Detentions have been made pending assurances that embargoed goods would be allowed to pass through a neutral country to Great Britain's allies.

The steamer *Leelanaw*, which carried a cargo of cotton from Galveston to Gothenburg for transshipment to Moscow, was detained in a British port early in June last. Relative to the detention of this vessel the British Foreign Office said:

In view of the fact that cotton has now been placed on the Swedish prohibition of export list, His Majesty's Government have not considered it advisable to allow this large cargo to go on to Gothenburg until they are assured that there is a fair chance of it reaching its declared ultimate destination.

After nearly a month's detention the vessel was released on the understanding that she should proceed directly to Archangel.

The steamers *Jentland* and *Syrius* appear to have been recently detained under circumstances similar to those of the steamer *Leelanaw*.

(8) From time to time this Government has been informed of the seizure of cargoes on the ground that consignees have been known to trade with the enemy or because they were suspected of doing so.

In January last this Government was advised by the British Government that the British Government had been compelled to place in prize court a consignment of rubber on board the Swedish vessel *Zamora*, the consignee of these goods being regarded with grave suspicion, and there being reason to believe that the ultimate destination of the rubber was the enemy forces.

(9) Vessels have been seized and brought into port and have been required by the British authorities to pay pilotage, harbor, unloading, warehouse, storage or other dues, costs, and expenses in advance of a judicial determination of the validity of the seizure of vessel or cargo.

Instances of such treatment of vessels may be found in the cases of the detention of the steamer *Neches* last May, the *Ogeechee*, which was seized last April, and the *Antilla*, which was seized in February last and subjected to a prolonged detention. In the case of the last-mentioned ship, it appears, however, that the cost of discharging was borne by the British Government.

(10) Detentions of vessels proceeding from European ports:

The steamer *Ogeechee*, which left Bremen April 3 last for the United States, was detained at Sharpness and compelled to discharge its entire cargo, which consisted of approximately 200 shipments of goods urgently needed by American citizens. In most if not all cases it appears that ownership of these goods at the time of the seizure had passed to American consignees. In many instances American citizens had contracted

for the sale of the goods consigned to them and were prevented from carrying out their contracts.

The release of shipments on the vessel has been allowed on the production of proofs of American ownership of the goods prior to March 11, 1915. American consignees in order to avoid loss have endeavored to comply with the requirements in the presentation of proofs.

The steamer *Neches*, which sailed from Rotterdam to the United States, was brought to London and compelled, in June last, to discharge cargo on the ground, apparently, that the goods originated partly in Belgium. The vessel was detained about a month and, after having been damaged to the extent of approximately £1,500 as a result of a collision with another vessel while under the control of the British Admiralty, and after having been involved in litigation growing out of such collision, was allowed to proceed.

The following is a list of the vessels detained prior to March 11 last, among which are some regarding the detention of which details have been briefly stated in this memorandum:

Platuria, Brindilla, John D. Rockefeller, Kroonland, Noorham, Rotterdam, Sandefjord, Thomas J. Fordney, Fram, Edward Pierce, Ellen, Tellus, Sif, Kim, Canton, Ogeechee, Friedland, Gallileo, Uller, Verona, Zuiderdijk, Greenbrier, Herm, Arkansas, Ascot, Carolyn, Breiford, Bergensfjord, Bjornstjerne, Bjornsen, Ida Cuneo, Kentucky, General Minetonna, General Caloric, Denver.

The following is an incomplete list of vessels carrying American cargoes which, sailing in practically all instances from American to Scandinavian ports, were diverted by British authorities to the port of Kirkwall, or called at that port under instructions from owners, from March 11, 1915, to June 17, 1915:

Name of vessel.	Cargo.	Date of arrival in British ports.	Date of leaving British ports.
Elsa; part cargo put in prize court; ordered Sunderland to discharge		March 11, 1915	March 15, 1915
Maracas; cargo put in prize court; ordered Hull to discharge		March 11, 1915	March 16, 1915
Gudrun; bound from Europe to the United States		March 11, 1915	March 11, 1915
Amphitrite	Cottonseed cake .	March 12, 1915	March 14, 1915

Name of vessel.	Cargo.	Date of arrival in British ports.	Date of leaving British ports.
Jens Bang; bound from Europe to the United States.		March 12, 1915	March 12, 1915
Rodfaze.	Maize.	March 12, 1915	March 14, 1915
Ran.	Maize and rye . . .	March 12, 1915	March 14, 1915
Lisken.	Maize and rye . . .	March 12, 1915	March 12, 1915
Absalon.		March 12, 1915	March 13, 1915
Wico.	Oil.	March 13, 1915	March 31, 1915
Torvig.	Cottonseed cake .	March 13, 1915	March 15, 1915
Green Briar.		March 13, 1915	March 16, 1915
Einar Jarl.	Cotton.	March 13, 1915	March 16, 1915
Ogeechee.		March 14, 1915	March 16, 1915
Tancred.	Cotton.	March 14, 1915	March 16, 1915
John Blummer.	Oil cake	March 14, 1915	March 16, 1915
Sutra.	Cotton.	March 14, 1915	March 15, 1915
Frogner.	General.	March 15, 1915	March 18, 1915
Hjortholm.		March 17, 1915	March 18, 1915
California.	General.	March 17, 1915	March 23, 1915
Uffe; bound from Europe to United States via Ardrossan.		March 19, 1915	March 19, 1915
Carl Henckel.	Cottonseed cake .	March 20, 1915	March 25, 1915
Helga.	Cottonseed cake .	March 20, 1915	March 31, 1915
Newa.	Cottonseed cake .	March 20, 1915	March 26, 1915
Havet.		March 20, 1915	March 23, 1915
Terno.	Maize.	March 20, 1915	March 23, 1915
United States.	General.	March 21, 1915	March 24, 1915
Texas.	General.	March 21, 1915	March 24, 1915
Haakon VII.	Cotton.	March 21, 1915	March 23, 1915
Varing.	Oilcake.	March 21, 1915	March 26, 1915
Sinsen.		March 21, 1915	March 23, 1915
Oxelosund.	Wheat.	March 21, 1915	March 23, 1915
Sigurd.		March 21, 1915	March 22, 1915
Myrdal.	General.	March 22, 1915	March 24, 1915
Sark.	Maize and barley	March 22, 1915	March 28, 1915
Borgland.	Cotton.	March 22, 1915	March 24, 1915
Vard.	Grain, oil-cake, and starch	March 23, 1915	March 25, 1915
Nike; sailed for Newcastle	Maize.	March 23, 1915	April 1, 1915
Gulfaxe.	Wheat, maize, rye, and barley	March 23, 1915	March 25, 1915
New Sweden; prize crew to Newcastle.	General.	March 23, 1915	March 29, 1915
Stikelsstad.	General.	March 23, 1915	April 4, 1915

Name of vessel.	Cargo.	Date of arrival in British ports.	Date of leaving British ports.
Korsfjord; whole cargo put in prize court; ordered Grimsby to discharge . . .	Lard	March 24, 1915	March 28, 1915
Cygnus; cargo put in prize court; ordered West Har- tlepool to discharge	General	March 24, 1915	March 31, 1915
Indianic; bound from Eu- rope to United States . . .	. . . . .	March 24, 1915	March 24, 1915
Vesta . . . . .	. . . . .	March 24, 1915	March 25, 1915
Carmelina	Cotton	March 25, 1915	March 27, 1915
Henrik; part cargo put in prize court; ordered to Leith to discharge	General	March 25, 1915	April 14, 1915
Unita	Maize	March 25, 1915	March 29, 1915
Thorsdal	Maize	March 25, 1915	March 27, 1915
Drott	Oil cake	March 26, 1915	March 28, 1915
Karma . . . . .	. . . . .	March 26, 1915	March 28, 1915
Strinda	Cotton	March 26, 1915	March 28, 1915
Iris	Cottonseed cake . .	March 26, 1915	March 28, 1915
Largo	Rye	March 26, 1915	March 28, 1915
Vincent; bound from Eu- rope to United States . . .	. . . . .	March 26, 1915	March 28, 1915
Ran	Maize	March 27, 1915	March 30, 1915
Terje Viken	General	March 27, 1915	April 29, 1915
Bretagne	Barley	March 27, 1915	March 31, 1915
Boden	Wheat	March 27, 1915	March 30, 1915
Avona	Cottonseed cake . .	March 27, 1915	March 30, 1915
Helmer Morch	Oil cake	March 27, 1915	March 30, 1915
Centric	Cotton	March 28, 1915	March 30, 1915
Stavn; part cargo put in prize court; sailed Leith to discharge	General	March 28, 1915	April 1, 1915
Clitra	Maize	March 28, 1915	April 2, 1915
Athens; cleared at Ardrossan Danmark; cleared at Ar- drossan . . . . .	. . . . .	March 29, 1915	April 29, 1915
Bergensfjord	General, mail and passengers	March 29, 1915	April 29, 1915
Sirius; bound from Europe to United States . . . . .	. . . . .	March 30, 1915	March 30, 1915
Bia; whole cargo put in prize court; sailed to Manchester to discharge .	Cotton	March 30, 1915	April 7, 1915

Name of vessel.	Cargo.	Date of arrival in British ports.	Date of leaving British ports.
Oscar Trapp; bound from Europe to United States	.....	March 30, 1915	March 31, 1915
Fionia.....	Barley and gen- eral.....	March 31, 1915	April 6, 1915
Sverre.....	Barley.....	March 31, 1915	April 13, 1915
Hilding; part cargo put in prize court; sailed Leith to discharge.....	General.....	March 31, 1915	April 7, 1915
Liguria.....	Cotton.....	April 1, 1915	April 4, 1915
Nyland.....	Oats.....	April 1, 1915	April 3, 1915
Antwerpen.....	.....	April 1, 1915	April 2, 1915
Capella.....	Oil cake.....	April 1, 1915	April 3, 1915
Ellen.....	Maize.....	April 1, 1915	April 3, 1915
Atland.....	Wheat.....	April 1, 1915	April 2, 1915
Dorte Jensen.....	Maize.....	April 1, 1915	April 4, 1915
Nordland.....	Maize.....	April 2, 1915	April 4, 1915
Alexandra.....	General.....	April 2, 1915	April 4, 1915
Uto; whole cargo put in prize court; steamer or- dered to Hull to dis- charge.....	Cottonseed cake..	April 2, 1915	April 11, 1915
Romsdalfjord; part cargo put in prize court; or- dered Sunderland to dis- charge.....	General.....	April 3, 1915	April 12, 1915
Sverige.....	Wheat and rye..	April 3, 1915	April 4, 1915
Hammershus; cargo put in prize court; ordered to discharge at Glasgow....	Rum, hides.....	April 3, 1915	April 17, 1915
Ulrick Holm.....	Grain.....	April 3, 1915	April 6, 1915
Jessie.....	Cottonseed cake..	April 3, 1915	April 7, 1915
Romsdal.....	.....	April 3, 1915	April 4, 1915
Avance.....	Cottonseed cake..	April 3, 1915	April 7, 1915
Hans Jensen.....	Maize.....	April 4, 1915	April 7, 1915
Kronstad.....	.....	April 4, 1915	April 7, 1915
Nedenes.....	Maize.....	April 4, 1915	April 7, 1915
Steinstad.....	Maize and rye...	April 4, 1915	April 9, 1915
Albis; whole cargo put in prize court; ordered Mid- dlesboro to discharge....	General.....	April 5, 1915	April 11, 1915
Laly.....	Cotton and to- bacco.....	April 5, 1915	April 13, 1915
Maud; part cargo put in			

Name of vessel.	Cargo.	Date of arrival in British ports.		Date of leaving British ports.
prize court; ordered Fleetwood to discharge..	Cotton and flour	April	5, 1915	April 17, 1915
Waldimir Reitz.....	Oil cake.....	April	5, 1915	April 7, 1915
Kronsprins Olaf.....	Cotton and oil cake.....	April	5, 1915	April 13, 1913
Else.....	Maize.....	April	5, 1915	April 20, 1913
Chumpon.....	Cotton.....	April	6, 1915	April 13, 1913
Llama.....	Oil.....	April	6, 1915	April 13, 1915
Sorland; part cargo put in prize court; ordered West Hartlepool to discharge..	General.....	April	7, 1915	April 10, 1915
Muskogee.....	.....	April	7, 1915	April 14, 1915
Navago.....	General.....	April	7, 1915	April 11, 1915
Annum; part cargo put in prize court; ordered Hull to discharge.....	General.....	April	7, 1915	April 11, 1915
Albert W. Selmer.....	Rye.....	April	8, 1915	April 10, 1915
Siljestad.....	Maize.....	April	8, 1915	April 10, 1915
Leander.....	.....	April	8, 1915	April 10, 1915
Marie; prize crew to Green- ock.....	Cotton.....	April	8, 1915	May 3, 1915
Joseph W. Fordney; prize crew to Wallow Bay....	.....	April	8, 1915	April 19, 1915
Imo.....	Cottonseed cake..	April	9, 1915	April 11, 1915
Arkansas.....	General.....	April	9, 1915	April 14, 1915
Virginia.....	Rye.....	April	9, 1915	April 11, 1915
Lapland; part cargo put in prize court; ordered to Barrow to discharge....	General.....	April	9, 1915	April 13, 1915
Zamora; part cargo put in prize court; ordered to Barrow to discharge....	Grain and copper	April	9, 1915	April 16, 1915
Selma.....	.....	April	10, 1915	April 13, 1915
Hellig Olaf.....	General.....	April	11, 1915	April 15, 1915
Pacific; part cargo put in prize court; ordered Leith to discharge.....	General.....	April	11, 1915	April 16, 1915
Songelv.....	Cottonseed cake..	April	11, 1915	April 19, 1915
Lejre; part cargo put in prize court; ordered Sharpness to discharge..	Cotton.....	April	11, 1915	April 20, 1915
Magdalene; ordered Man- chester to discharge.....	Cotton.....	April	12, 1915	May 2, 1915

Name of vessel.	Cargo.	Date of arrival in British ports.	Date of leaving British ports.
Drot		April 12, 1915	April 14, 1915
Tholma		April 12, 1915	April 14, 1915
America; part cargo put in prize court; order Sun- derland to discharge	General	April 12, 1915	April 16, 1915
N. F. Holding	Grain	April 12, 1915	April 14, 1915
Georgia; prize crew to Sharpness	Cotton	April 12, 1915	April 20, 1915
Johan Siem	Cottonseed cake .	April 13, 1915	April 15, 1915
Hans Broge; cleared at Ar- drossan	Rye	April 13, 1915	April 13, 1915
Tordis	Cottonseed cake .	April 13, 1915	April 15, 1915
Baltic; ship ordered to Hull to discharge	Cotton	April 13, 1915	May 13, 1915
Braker	Maize	April 13, 1915	April 18, 1915
Roma	Lubricating oil...	April 13, 1915	April 17, 1915
L. H. Carl; cleared at Ar- drossan		April 13, 1915	April 13, 1915
Hero	Maize	April 14, 1915	April 16, 1915
Mirjam	Rye	April 14, 1915	April 16, 1915
Kong Haakon	Maize	April 14, 1915	April 27, 1915
Dicido; prize crew to Fleet- wood	Cotton	April 14, 1915	May 1, 1915
Lars Kruse	Maize	April 14, 1915	April 16, 1915
Talavera	Maize	April 14, 1915	April 17, 1915
Falka	Cottonseed cake .	April 15, 1915	April 17, 1915
Carolina; ordered Grimsby to discharge	Cotton	April 15, 1915	May 2, 1915
Louisiana; ordered Hull to discharge part cargo	General	April 16, 1915	April 23, 1915
Mexicano; ordered Green- ock with prize crew	General	April 16, 1915	April 18, 1915
Anglia; prize crew to Dun- dee	Cotton and resin .	April 16, 1915	April 24, 1915
Jungshevd		April 16, 1915	April 18, 1915
Orn; cleared at Ardrossan ..		April 16, 1915	April 16, 1915
Bretagne		April 17, 1915	April 19, 1915
Storaker	Maize	April 18, 1915	April 21, 1915
Torgerd	Cottonseed cake .	April 18, 1915	April 20, 1915
Rhodesia; prize crew to Greenock	General	April 18, 1915	April 22, 1915
Olaf Kyrre; ordered Grims- by to discharge cotton...	Cotton	April 19, 1915	May 5, 1915

Name of vessel.	Cargo.	Date of arrival in British ports.	Date of leaving British ports.
Heros.....	Wheat and rye ..	April 20, 1915	April 22, 1915
Bertha.....	Maize.....	April 21, 1915	April 23, 1915
With Colding; cleared at Ardrossan.....		April 21, 1915	April 21, 1915
Kristianiafjord.....	General cargo, mail and pas- sengers.....	April 21, 1915	April 22, 1915
Gothard.....	Cottonseed cake ..	April 21, 1915	April 23, 1915
Christian Michelsen.....	General.....	April 21, 1915	April 24, 1915
Eidswa.....	Cottonseed cake.....	April 21, 1915	April 24, 1915
Tomsk.....		April 22, 1915	April 27, 1915
Regina.....	Cottonseed cake.....	April 22, 1915	April 24, 1915
Russ.....	Cottonseed cake.....	April 22, 1915	April 24, 1915
Hogland; bound from Eu- rope to United States.....		April 23, 1915	April 23, 1915
Randulf Hansen.....	Maize.....	April 23, 1915	April 25, 1915
St. Croix.....	Cottonseed cake.....	April 23, 1915	April 25, 1915
Ringhorn.....	Rye.....	April 24, 1915	April 25, 1915
Pioneer.....	Petroleum.....	April 24, 1915	April 26, 1915
Carl Henkel; via Newcastle for bunkers.....		April 24, 1915	April 24, 1915
Hero; cleared at Ardros- san.....		April 24, 1915	April 24, 1915
Locksley.....	Wheat.....	April 24, 1915	April 27, 1915
Kentucky.....	General.....	April 24, 1915	April 27, 1915
Soborg.....	Maize and barley	April 25, 1915	April 27, 1915
Artemis; prize crew to Avonmouth.....	General.....	April 25, 1915	April 28, 1915
Grointoft.....	Maize and barley	April 25, 1915	April 26, 1915
Hans Jensen; via Ardros- san for bunkers.....		April 25, 1915	April 25, 1915
Kongsfes.....	Oil cake.....	April 26, 1915	April 28, 1915
Brynild; cleared at Ar- drossan.....		April 26, 1915	April 26, 1915
Dronning Olga; prize crew to Leith.....	Wheat, lard, etc. ..	April 27, 1915	April 30, 1915
Kronsprins Frederick.....	Barley.....	April 27, 1915	April 29, 1915
Salina.....	Rye and maize.....	April 28, 1915	April 29, 1915
Ivar; cleared at Ardrossan ..	Maize.....	April 28, 1915	April 28, 1915
Nerbotten.....	Coal and lubri- cating oil.....	April 28, 1915	April 30, 1915
Fredericia; cleared at Ar- drossan.....		April 29, 1915	April 29, 1915

Name of vessel.	Cargo.	Date of arrival in British ports.	Date of leaving British ports.
Wico; cleared at North Shields.	Ballast.	April 29, 1915	April 30, 1915
Carolyn; prize crew to Leith.	Cotton and turpentine.	April 29, 1915	May 3, 1915
Varing; via Newcastle for bunkers.		April 30, 1915	May 1, 1915
Inland; cleared at Ardrossan.		May 1, 1915	May 1, 1915
United States.	Mails and passengers.	May 2, 1915	May 4, 1915
Jens Bang.	Maize.	May 2, 1915	May 4, 1915
Ludvig Peyron.	Wheat.	May 4, 1915	May 5, 1915
Minerva; prize crew to Newcastle.	General.	May 4, 1915	May 7, 1915
Hatholmen.	Cottonseed cake.	May 4, 1915	May 6, 1915
Bur.	Wheat.	May 6, 1915	May 8, 1915
Petrolite.	Petroleum lubricating oil.	May 7, 1915	May 9, 1915
Augusta; prize crew to Leith.	General.	May 7, 1915	May 10, 1915
Gerd; prize crew to Leith.	General.	May 7, 1915	May 10, 1915
Thekla.	Linseed cake.	May 7, 1915	May 10, 1915
Orion.	Maize.	May 8, 1915	May 10, 1915
Paris; cleared at Ardrossan.	Lubricating oil.	May 8, 1915	May 8, 1915
Otterstad.	Cottonseed cake.	May 8, 1915	May 10, 1915
Sigyn; prize crew to Ipswich.	Wheat, rye, and maize.	May 8, 1915	May 14, 1915
Gudrun.	Maize.	May 8, 1915	May 9, 1915
Oscar II.	General cargo, mail, and passengers.	May 9, 1915	May 10, 1915
London; prize crew to Barrow.	Lubricating oil.	May 10, 1915	May 13, 1915
Maricopa.	Gas oil.	May 10, 1915	May 19, 1915
Gunborg; prize crew to Dundee.	General.	May 10, 1915	May 12, 1915
Liv.	Rye.	May 11, 1915	May 12, 1915
Loch Tay.	General.	May 11, 1915	May 19, 1915
Nordic; prize crew to Manchester.	General.	May 12, 1915	May 15, 1915
Indianic; prize crew to Leith.	General.	May 12, 1915	May 17, 1915
Vinland.	Maize.	May 13, 1915	May 15, 1915

Name of vessel.	Cargo.	Date of arrival in British ports.	Date of leaving British ports.
Sven; prize crew to King's Lynn.....	Rock, phosphate	May 13, 1915	May 24, 1915
Skinfaxe.....	Maize.....	May 14, 1915	May 16, 1915
Ooman.....	Maize.....	May 14, 1915	May 16, 1915
Prosper III; cleared at Ar- drossan.....	.....	May 14, 1915	May 14, 1915
Dania.....	General.....	May 14, 1915	May 19, 1915
John Blumer.....	Maize.....	May 15, 1915	May 18, 1915
Gurth.....	Wheat.....	May 15, 1915	May 17, 1915
Sommerstad.....	Maize.....	May 18, 1915	May 20, 1915
Sydland; prize crew to West Hartlepool.....	General.....	May 18, 1915	May 21, 1915
Uffe; cleared at Ardrossan..	Oil cake.....	May 21, 1915	May 21, 1915
Redfaxe.....	Rye.....	May 22, 1915	May 25, 1915
Excellence Pleske.....	Cottonseed cake .	May 23, 1915	May 27, 1915
Vulcan; cleared by customs on June 5, but detained by Admiralty.....	Oil.....	May 23, 1915	June 9, 1915
Ester.....	Cottonseed cake .	May 23, 1915	May 25, 1915
Sigurd; cleared at Ardrossan	Oil cake.....	May 23, 1915	May 24, 1915
Drammensfjord.....	General.....	May 25, 1915	May 27, 1915
Glendoon.....	Cottonseed cake .	May 25, 1915	May 27, 1915
Pythia; prize crew to Im- mingham.....	Cotton and cot- tonseed cake ..	May 27, 1915	May 30, 1915
Sophie.....	Cottonseed cake .	May 27, 1915	May 29, 1915
Aldebaran.....	Maize.....	May 28, 1915	May 30, 1915
Kiruna.....	Wheat.....	May 28, 1915	May 30, 1915
Frederick VIII.....	General, mail, and passengers	May 28, 1915	May 29, 1915
Justensen; cleared at Ayr ..	Maize.....	May 28, 1915	May 28, 1915
Romanoff.....	Barley.....	May 28, 1915	June 30, 1915
Tyr; cleared by customs on 25th.....	General.....	May 29, 1915	June 29, 1915
Amphitrite.....	Rye.....	May 29, 1915	June 1, 1915
Olaf; cleared at Ardrossan..	Cottonseed cake .	May 29, 1915	May 29, 1915
Einar Jarl; prize crew to Sunderland.....	Cottonseed cake .	May 29, 1915	June 11, 1915
Llama.....	Gas oil.....	May 29, 1915	June 5, 1915
Edderside.....	Oil cake.....	May 30, 1915	June 1, 1915
H. V. Fieker.....	Maize.....	May 31, 1915	May 31, 1915
Marietta di Giorgio.....	Gas oil and lubri- cating oil	June 1, 1915	June 18, 1915
Lyeglint.....	Oil cake.....	June 1, 1915	June 3, 1915

Name of vessel.	Cargo.	Date of arrival in British ports.	Date of leaving British ports.
Sydic.....	Wheat.....	June 1, 1915	June 3, 1915
Vidar.....	Cottonseed cake.	June 2, 1915	June 6, 1915
Leelanaw; cleared for Arch- angel.....	Cotton.....	June 2, 1915	June 28, 1915
Bretagne; Tyne for bunkers	Maize.....	June 3, 1915	June 5, 1915
Polstad.....	Cottonseed cake.	June 3, 1915	June 6, 1915
Gulfaxe.....	Maize.....	June 3, 1915	June 5, 1915
Ros.....	Rye.....	June 6, 1915	June 8, 1915
M. J. Mandal; cleared at Ayr	Maize.....	June 6, 1915	June 6, 1915
Whinlatter; detained.....	Barley and oil cake.....	June 6, 1915	.....
Narvik.....	Rye.....	June 6, 1915	June 8, 1915
Beden.....	Coal.....	June 6, 1915	June 10, 1915
Nordkyn; prize crew to Leith.....	Maize.....	June 8, 1915	June 17, 1915
Polarine; detained.....	Petroleum and naphtha.....	June 8, 1915	.....
Carl Henckel.....	Cottonseed cake.	June 9, 1915	June 11, 1915
Jemtland; prize crew to Leith.....	Resin, cotton, cot- tonseed cake oil	June 9, 1915	June 12, 1915
Platuria; detained.....	Oil.....	June 10, 1915	.....
California.....	General.....	June 11, 1915	June 19, 1915
Djursland.....	Oil cake.....	June 11, 1915	June 17, 1915
Cushing.....	Petroleum.....	June 12, 1915	June 13, 1915
Absalon.....	Lubricating oil...	June 13, 1915	June 13, 1915
Lisa; detained.....	Resin.....	June 13, 1915	.....
Wico.....	Oil.....	June 13, 1915	June 14, 1915
Balto.....	Coal.....	June 14, 1915	June 15, 1915
Nordhavet; prize crew to Grimsby.....	Agricultural im- plements.....	June 14, 1915	June 19, 1915
New Sweden.....	Gas coal.....	June 14, 1915	June 15, 1915
Oscar Trapp.....	Pitch pine wood..	June 14, 1915	June 14, 1915
Hans Jensen.....	Maize.....	June 14, 1915	June 16, 1915
Signe; cleared by customs; taking bunkers; expect sail July 2, 1915.....	General.....	June 14, 1915	June 30, 1915
Dorte Jensen; cleared at Ardrossan.....	Maize.....	June 15, 1915	June 15, 1915
Portland; prize crew to Blyth.....	Barley, beans, dried fruit, and oil cake...	June 15, 1915	June 18, 1915
Seaconnet; prize crew to Newcastle.....	General.....	June 16, 1915	June 19, 1915

The following is an incomplete list of neutral vessels detained in England during the remainder of June and the months of July and August. Precise information regarding the dates of arrival in England and the dates of sailing of these ships and regarding the seizure of cargoes thereon is not yet available.

Absalon, Lisa, Balto, Nordhavet, New Sweden, Hans Jensen, Dorte, Jensen, Hellig Olav, Muskogee, Bratland, Polarstjernan, Locksley, Atland, Akarea, Janna, Sirius, Frederick VII, Nordstjernan, Texas, Ullsbrand, Falkland, Sir Ernest Cassel, Wico, Portland, Llama, Pioneer, Kristianifjord, Florida, Skogland, Groentoft, Louisiana, Virginia, Gurre, Hans Broge, Stanja, United States, Russ, Ulrik Holm, Glitra, Kentucky, Tuborg, Fram, Urd, Mexicano, Pangan, Varing, Oscar II, Bergensfjord, Arkansas, Conrad Mohr, Noruga, Alf, Hogland, Thyras, Kong Haakon, Talisman, Corona, Drammonsfjord, Prolite, Brindilla, Lesseps, Platuria, Sydne, Jullandic, Zammora, Helga, Kronprinzessin Margareta, Stryn, Narvic, Alexander, Barendrecht, Spangereid, Marie, St. Andrew, Artemis, Dania, London, Salonica, Alexander Shukoff, Angla, Johan Siem, Nordhvalen.

Ambassador W. H. Page to the Secretary of State.

No. 2559.]

AMERICAN EMBASSY,
London, November 18, 1915.

SIR: Referring to my cablegram No. 3214 of November 15,¹ in regard to the two Orders in Council of the 10th instant relating to British vessels, I now have the honor to transmit herewith, for the information of the Department, 7 copies each of the following extracts from the Second Supplement to the London Gazette of Tuesday, the 9th of November, 1915:

"Requisition of ships (carriage of foodstuffs)," "Carriage of cargoes on British vessels between foreign ports."

I have, etc.,

WALTER HINES PAGE.

¹ Not printed.

[Inclosure.]

[Extract from the Second Supplement to the London Gazette of Tuesday, November 9, 1915.]

REQUISITION OF SHIPS (CARRIAGE OF FOODSTUFFS)—ORDER IN COUNCIL,
1915.

At the Court at Buckingham Palace, the 10th day of November, 1915.

Present: The King's Most Excellent Majesty in Council.

Whereas a state of war exists between His Majesty and the German Emperor, the Emperor of Austria King of Hungary, the Sultan of Turkey, and the King of the Bulgarians:

And whereas His Majesty holds it to be His Prerogative Duty as well as His Prerogative Right to take all steps necessary for the Defence and Protection of the Realm;

And whereas it has been made to appear to His Majesty that it is essential to the Defence and Protection of the Realm that all British ships registered in the United Kingdom should be made liable to requisition in manner hereinafter appearing for the carriage of foodstuffs and of any other articles of commerce;

Now, therefore, His Majesty is pleased, by and with the advice of His Privy Council, and in exercise of His Prerogatives as aforesaid and of all other powers Him thereunto enabling, to order, and it is hereby ordered, that any British ship registered in the United Kingdom may until further order be requisitioned by and on behalf of His Majesty for the carriage of foodstuffs and of any other articles of commerce, and such requisition is to take effect upon Notice of Requisition being served as hereinafter provided on the Owner of any such ship;

And His Majesty is further pleased, by and with the advice aforesaid, to authorize and direct the President of the Board of Trade to give effect to this Order by causing Notice of Requisition to be served on the Owner of any such ship;

And His Majesty is further pleased, by and with the advice aforesaid, to declare that service of Notice of Requisition on an Owner shall be deemed sufficient and effective if served in the case of an individual Owner by being addressed to such individual Owner and left at his last-known place of business or abode, and in the case of joint Owners by being addressed to such joint Owners and left at the last-known

business addresses or places of abode of such joint Owners, and in the case of a Company or Corporation by being addressed to such Company or Corporation and left at the registered or other address of such Company or Corporation, or in any of the aforesaid cases by being addressed to the Managing Owner, Ship's Husband, or other the person to whom the management of the ship is by law entrusted by or on behalf of the Owners, and left at the registered or other last-known address or place of abode of such Managing Owner, Ship's Husband, or other such person, as the case may be;

And His Majesty is further pleased, by and with the advice aforesaid, to declare that any Notice of Requisition which the President of the Board of Trade may cause to be served hereunder, may be signed by any person or persons from time to time authorized for such purpose either generally or specially by the President of the Board of Trade.

And the President of the Board of Trade is to give instructions and directions accordingly.

ALMERIC FITZROY.

[Inclosure 2.]

[Extract from the Second Supplement to the London Gazette of Tuesday, November 9, 1915.]

CARRIAGE OF CARGOES ON BRITISH VESSELS BETWEEN FOREIGN PORTS—
ORDER IN COUNCIL.

At the Court at Buckingham Palace, the 10th day of November, 1915.

Present: The King's Most Excellent Majesty in Council.

Whereas a state of war exists between His Majesty and the German Emperor, the Emperor of Austria King of Hungary, the Sultan of Turkey, and the King of the Bulgarians;

And whereas His Majesty holds it to be His Prerogative Duty as well as His Prerogative Right to take all steps necessary for the Defense and Protection of the Realm;

And whereas it has been made to appear to His Majesty that it is essential to the Defense and Protection of the Realm, that, in the exercise of His Prerogatives as aforesaid, He should prohibit as from and after the First day of December, 1915, the carrying of cargo from any foreign port to any other foreign port by any British Steamship registered in the United Kingdom exceeding 500 tons gross tonnage—and whether or not such ship while carrying such cargo calls at any intermediate port within His Majesty's Dominions—unless the Owner or Charterer of such Steamship has been granted exemption by License as hereinafter provided:

Now, therefore, His Majesty is pleased, by and with the advice of His Privy Council, and in exercise of His Prerogatives as aforesaid and of all other powers Him thereunto enabling, to order, and it is hereby ordered, that from and after the First day of December, 1915, no British Steamship registered in the United Kingdom exceeding 500 tons gross tonnage shall carry any cargo from any foreign port to any other foreign port—and whether or not such ship while carrying such cargo calls at any intermediate port within His Majesty's Dominions—unless the Owner or Charterer of such Steamship has been granted exemption by License as hereinafter provided.

And His Majesty doth hereby declare that the expression "foreign port" herein used shall mean and include any port outside His Majesty's Dominions.

And His Majesty, by and with the advice aforesaid, and in exercise of His Prerogatives and Powers as aforesaid, is further pleased to authorize and direct the President of the Board of Trade to appoint a Committee of persons to carry out and give effect to the provisions hereof, and that the said Committee shall have power to grant Licenses of exemption therefrom to or in favor of Owners and Charterers of such Steamships as aforesaid, which Licenses may be general in reference to classes of ships or their voyages or special.

And His Majesty is further pleased to authorize the President of the Board of Trade from time to time to add other persons as members of such Committee, and to substitute as members thereof other persons for such members as may from time to time die, resign, or be or become incapable of acting thereon.

And the President of the Board of Trade is to act and to give instructions and directions accordingly.

ALMERIC FITZROY.

Ambassador W. H. Page to the Secretary of State.

[Telegram.]

AMERICAN EMBASSY,
London, January 19, 1916.

Trading with the enemy (extension of powers) act 1915. An act to provide for the extension of the restrictions relating to trading with the enemy to persons to whom, though not resident or carrying on business in enemy territory, it is by reason of their enemy nationality or enemy associations expedient to extend such restrictions (23d December, 1915). Be it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal and Commons in this present Parliament assembled, and by the authority of the same, as follows:

1. (1) His Majesty may by proclamation prohibit all persons or bodies of persons, incorporated or unincorporated, resident carrying on business or being in the United Kingdom, from trading with any persons or bodies of persons not resident or carrying on business in enemy territory or in territory in the occupation of the enemy (other than persons or bodies of persons, incorporated or unincorporated, residing or carrying on business solely within His Majesty's dominions), wherever by reason of the enemy nationality or enemy association of such persons or bodies of persons incorporated or unincorporated, it appears to His Majesty expedient so to do; and if any person acts in contravention of any such proclamation he shall be guilty of a misdemeanor, triable and punishable in like manner as the offence of trading with the enemy; (2) any list of persons and bodies of persons, incorporated or unincorporated, with whom such trading is prohibited by a proclamation under this act, may be varied or added to by an order made by the Lords of the Council on the recommendation of a Secretary of State; (3) the provisions of the trading with the enemy acts, 1914 and 1915, and of the customs (war powers) (Number 2) act, 1915, and all other enactments relating to trading with the enemy shall, subject to such exceptions and adaptations as may be prescribed by Order in Council, apply in respect of such persons and bodies of persons as aforesaid, as if for references therein to trading with the enemy there were substituted references to trading with such persons and bodies of persons as aforesaid, and for references to enemies there were substituted references to such persons and bodies of persons as aforesaid, and for references to offences under the trading

with the enemy acts, 1914 and 1915, or any of those acts there were substituted references to offences under this act; (4) for the purpose of this act a person shall be deemed to have traded with a person or body of persons to whom a proclamation issued under this act applies if he enters into any transaction or does any act with, to, on behalf of, or for the benefit of such a person or body of persons, which, if entered into or done with, to, on behalf of, or for the benefit of an enemy, would be trading with the enemy.

2. This act may be cited as the trading with the enemy (extension of powers) act, 1915.

PAGE.

The Secretary of State to Ambassador W. H. Page.

[Telegram.]

DEPARTMENT OF STATE,
Washington, January 25, 1916.

Your 3601 and 3602, January 19.

Department has given consideration to enemy trading act approved December 23 last, the apparent object of which is to prevent any person doing business in the United Kingdom from trading with the enemies of Great Britain or persons having enemy association in any other part of the world, and the Department has reached the conclusion that this act is pregnant with possibilities of undue interference with American trade, if in fact such interference is not now being practiced. As it is an opinion generally held in this country, in which this Government shares, that the act has been framed without a proper regard for the right of persons domiciled in the United States, whether they be American citizens or subjects of countries at war with Great Britain, to carry on trade with persons in belligerent countries, and that the exercise of this right may be subject to denial or abridgment in the course of the enforcement of the act, the Government of the United States is constrained to express to His Majesty's Government the grave apprehensions which are entertained on this subject by this Government, by the Congress, and by traders domiciled in the United States. It is, therefore, necessary to bring these views to the attention of Sir Edward Grey and to present to him a formal reservation, on the part of this Government, of the

right to protest against the application of this act, in so far as it affects the trade of the United States, and to contest the legality or rightfulness of imposing restrictions upon the freedom of American trade in this manner.

LANSING.

Ambassador W. H. Page to the Secretary of State.

No. 3092.]

AMERICAN EMBASSY,
London, February 19, 1916.

SIR: With reference to the Department's cablegram No. 2774, of January 25, and my telegraphic reply No. 3913, of the 18th instant,¹ relative to the possible effects of the trading with the enemy (extension of powers) act, 1915, on the commerce of the United States, I have the honor to transmit herewith, for the information of the Department, a copy of the note dated the 16th instant, which has been addressed to the Embassy by the Foreign Trade Department of the Foreign Office in this connection.

I have, etc.,

WALTER HINES PAGE.

[Inclosure.]

The British Secretary of State for Foreign Affairs to Ambassador W. H. Page.

No. 1540/45.]

FOREIGN OFFICE,
FOREIGN TRADE DEPARTMENT,
LANCASTER HOUSE, ST. JAMES, S. W.
February 16, 1916.

YOUR EXCELLENCY: I have the honour to acknowledge the receipt of Your Excellency's note of the 26th ultimo relative to the possible effects of the trading with the enemy (extension of powers) act, 1915, on United States commerce.

The act was framed with the object of bringing British trading with

¹ Not printed.

the enemy regulations into greater harmony with those adopted by the French Government since the commencement of the war by applying in some degree the test of nationality in the determination of enemy character in addition to the old test of domicile, which experience has shown can not provide a sufficient basis under modern commercial conditions for measures intended to deprive the enemy of all assistance, direct or indirect, from national resources.

His Majesty's Government realized, however, that the application of this principle to its fullest extent, while entirely legitimate and in accordance with the practice of other countries, might, if applied at the present time to commercial activities as widespread as those of British subjects, involve avoidable inconvenience and loss to innocent traders.

They were careful, therefore, in devising the necessary legislation not only to avoid any definition which would impose enemy status upon all persons of enemy nationality and associations, but also to take powers of discrimination which would enable them to apply the purely commercial restrictions contemplated only in regard to those persons from whom it was necessary in British interests to withhold the facilities afforded by British resources.

His Majesty's Government have therefore abstained from a course of action admittedly within their rights as belligerents, which is not only the existing practice of the French Government but in strict accordance with the doctrine openly avowed by many other States to be the basis upon which their trading with the enemy regulations would be founded in the event of war, and have confined themselves to passing a piece of purely domestic legislation empowering them to restrict the activities and trade of persons under British jurisdiction in such a manner and to such an extent as may seem to them to be necessary in the national interest.

His Majesty's Government readily admit the right of persons of any nationality resident in the United States to engage in legitimate commercial transactions with any other persons. They can not admit, however, that this right can in any way limit the right of other Governments to restrict the commercial activities of their nationals in any manner which may seem desirable to them by the imposition of prohibitions and penalties which are operative solely upon persons under their jurisdiction.

In claiming this right which appears to them to be inherent in sovereignty and national independence, His Majesty's Government desire to assure the United States Government that they will exercise it with

every possible care to avoid injury to neutral commerce, and they venture to think that the voluntary limitation of their powers by the terms of the trading with the enemy (extension of powers) act, 1915, is evidence of their desire and intention to act with the greatest possible consideration for neutral interests.

I have, etc.,

For the Secretary of State:
L. WORTHINGTON EVANS.

Ambassador W. H. Page to the Secretary of State.

No. 3093.]

AMERICAN EMBASSY,
London, February 19, 1916.

SIR: I have the honor to report to the Department the following facts which have presented themselves with reference to goods belonging to American citizens which have been detained by the British Government authorities and placed in the Prize Court.

The Foreign Office has undertaken to inform the Embassy of the seizure of any vessel carrying American goods and also of the items of these goods which have been detained and placed in the Prize Court. Upon the receipt of such information as to the vessel or a list of the goods detained and held for Prize Court proceedings, the Embassy is in the practice of immediately cabling it to the Department.

The Department of State, it is understood, informs the American shipper that the Embassy has cabled that the goods have been placed in the Prize Court. In a great many instances the shipper telegraphs or writes direct to the Embassy requesting it to arrange for the release of their goods.

The Embassy understands that, inasmuch as Prize Court proceedings are to take place, no diplomatic representations will be received by the British Government in connection with these goods, unless such representations are pursuant to special instructions of the Government at Washington.

In almost all cases where such representations are made to the Foreign Office under instructions from the Department, the Foreign Office replies that the Procurator General finds that it is impossible to comply with the request for release, and that the claimants must communicate with the Procurator General's office, where, if satisfactory proof is produced

the goods will be released; or, if the proofs appear to be unsatisfactory, the goods will be held until the sitting of the Prize Court, which will then pass its judgment on the goods.

As the Procurator General's office will receive no official communication from the Embassy in matters of this kind, the shipper must either transmit his evidence direct or employ his agents or a solicitor in London.

The larger American shippers usually have an office or an agent in London who understands Prize Court proceedings, and is capable of appearing at the Procurator General's office in support of the claim for the release of the goods. The smaller shippers who have no office in London are in this way placed at a disadvantage.

In view of the fact that the Consul General is in the practice of communicating directly with the Procurator General's office in regard to all claims of American citizens, I respectfully suggest that the Department advise the shipper to send the necessary papers to him direct, unless the Department wishes further diplomatic representations to be made.

In all cases where the shipper writes direct to the Embassy, and it is found that communication with the Foreign Office would be of no avail, I shall advise the shipper to address himself directly to the Consul General, and shall send him a list of the documents which he should transmit with his letter.

I also feel that the American exporter should be informed as to the exact status of Prize Courts in international relations, and of the position of goods actually in the Prize Court, and that the British Government will receive no diplomatic representations in these cases except under instructions from the Government in view of special circumstances involved.

The Procurator General's office has advised me informally that the documents which should be submitted to it in support of claims for the release of goods are as follows: The originals of—

1. Bills of lading.
2. Invoices.
3. All previous correspondence with firms in the country to which the goods are shipped.
4. Contracts.
5. Insurance policies.
6. An affidavit setting forth all facts of the case.

I feel sure that this procedure will be the quickest and easiest way of disposing to the satisfaction of the shipper such cases as the British

Government will not release from the Prize Court on diplomatic representations, or where goods are in the Prize Court and no diplomatic representations are in order.

I have, etc.,

WALTER HINES PAGE.

Consul General Skinner to the Secretary of State.

No. 1248.]

AMERICAN CONSULATE GENERAL,
London, February 24, 1916.

SIR: I have the honor to enclose herewith copy of a letter received from the American Consular Agent at Kirkwall setting forth the routine practice of the British authorities on the arrival of vessels diverted to that port by the Admiralty.

I have, etc.,

R. P. SKINNER.

[Inclosure.]

Consular Agent Flett¹ to Consul Latham.²

KIRKWALL, *February 14, 1916.*

SIR: I find I have to acknowledge receipt of your letter of the 7th instant.

So soon as a vessel from an American or other port arrives here she is boarded by an Admiralty Officer, who examines the ship's papers and also the crew. She is also boarded by the Customs Officials, who examine the ship's papers and search the ship in the ordinary way. The whole ship's papers are removed by the Customs Officials and brought ashore with them and retained in the Customs Office here. The papers are then examined by the indoor staff of the Customs here and all particulars relating to ship and cargo are telegraphed to London. The papers are retained by the Customs until they receive instructions whether the vessel is to be allowed to proceed or whether the whole cargo or part thereof is to be placed in the Prize Court. If the vessel is allowed to

¹ American consular agent at Kirkwall.

² American consul at Dundee.

proceed, the ship's papers are then handed over by the Customs to the Admiralty Port Officer and he either hands them over to the Captain personally or sends them on board the vessel. In the event of part or the whole of the cargo being placed into the Prize Court, the ship's papers are handed by the Admiralty Port Officer to the Prize Officer, who is sent on board that vessel to whichever port she might be ordered to discharge.

If the vessel is cleared, the Customs Authorities give the Master of the Vessel a clearance card to that effect. It is very seldom that a vessel ever breaks bulk here. I have known of a small quantity of cargo that has been prizecourted being taken out of a vessel here, so as to allow the vessel to proceed and avoid unnecessary delay and expense in sending her to another port to discharge. It is, however, very seldom that this happens. If I have not made myself sufficiently clear, I shall be very pleased on hearing from you to give you further information on any points that you may wish further information.

I am, etc.,

JAMES FLETT,
Consular Agent.

The Acting Secretary of State to Ambassador W. H. Page.

No. 3374.]

DEPARTMENT OF STATE,
Washington, March 16, 1916.

SIR: The Department is in receipt of your No. 3093, of February 19, 1916, reporting facts which have presented themselves with reference to goods belonging to American citizens which have been detained by the British authorities and placed in the Prize Court.

In this relation there is enclosed herewith for your information a copy of the letter sent by the Department to the William Amer Company under date of March 9, 1916.

With a view to having the Consul-General render such assistance as may be possible and proper in an endeavor to bring about the release of goods which have been seized by the British authorities, the Department has addressed similar communications to other American shippers who have complained respecting the seizure of goods shipped by them to European ports.

I am, etc.,

FRANK L. POLK.

[Inclosure.]

The Secretary of State to the William Amer Company.

DEPARTMENT OF STATE,
Washington, March 9, 1916.

GENTLEMEN: The Department has received your letter of March 1, 1916, in regard to the seizure by the British authorities of a quantity of glazed kid shipped by you to Sweden on the steamship *Alexandria*.

The Department encloses for your information, a print containing an Order in Council issued by the British Government March 11, 1915, regarding the stopping of goods shipped to or from Germany. This Order, which is at present the subject of diplomatic discussion between the Government of the United States and the Government of Great Britain, shows the action which the British Government declare their intention to take in the matter of stopping goods which they desire to have taken by interested persons to obtain the restoration of their goods or payment therefor.

The American Consul General has informed the Department that, if shippers will communicate with him directly regarding shipments which have been detained under this Order in Council, he will ascertain the status of the goods, and, when possible, endeavor to effect their release. The Consul General states that, even though goods may be classified as contraband, the Procurator General will consider evidence indicating innocent ultimate destination of such goods, and has advised him (the Consul General) to obtain, wherever possible, original correspondence with buyers or consignors. The Consul General further states that when claims for goods are submitted through the Consulate General there is always hope that the release of the property will follow without formal proceedings or expense, and that if such release is not brought about the papers in any given case in which prize court proceedings may be instituted may be turned over to British solicitors. The Consul General points out that in all cases it is futile to forward requests for release of goods unsupported by documentary history showing the ownership and destination of the consignment which it is sought to have released. The Procurator General has suggested that the papers which should be presented are the originals of invoices, contracts, insurance policies, bills of lading, all correspondence with concerns in the country to which the goods are shipped, and an affidavit setting forth the facts in a given case.

As has just been stated, the Order in Council regarding the stopping of goods shipped to or from Germany is at present the subject of diplomatic discussion between the Government of the United States and the Government of Great Britain. And neither anything contained in this letter nor any action of the Consul General in connection with his efforts to bring about the release of goods which have been detained should be construed as an admission on the part of the Government of the United States of the legality of the action taken by the British Government under this Order.

It is suggested that you might deem it advisable to communicate directly with the Consul General regarding the shipment referred to in your letter. On the other hand, if these goods have been sent to the prize court, it may be well for you to take prompt steps to establish your rights before the court. The Department can not undertake to assist private persons in the conduct of proceedings before the court.

Should you desire to consult private counsel in England regarding this matter, the American Consul General at London will doubtless be able to furnish you on your request with the names of a number of reputable attorneys one of whom may be employed in the matter. It should be stated in this connection, however, that obviously neither the Consul General nor the Department can be responsible for the integrity or ability of any lawyer who may be employed as a result of the information furnished by the Consul General.

I am, etc.,

For the Secretary of State:

ALVEY A. ADEE.

The British Ambassador to the Secretary of State.

No. 107.]

BRITISH EMBASSY,
Washington, April 24, 1916.

SIR: I have the honour, in obedience to instructions received from Sir Edward Grey, His Majesty's Principal Secretary of State for Foreign Affairs, to transmit to you herewith a memorandum embodying the reply to the representations of your Government in regard to restrictions on trade, which were communicated to Sir Edward Grey in Mr. Page's note of November 5, last, in pursuance to your instructions dated October 21.¹

I have, etc.,

CECIL SPRING-RICE.

¹ *Supra*, p. 73.

[Inclosure.]

MEMORANDUM.

The communication addressed by the United States Ambassador in London to Sir E. Grey on the 5th November, 1915, has received the careful attention of His Majesty's Government, in consultation with their allies the French Government, and His Majesty's Government have now the honour to make the following reply:

2. The first section (paragraphs 3-15) of the United States note relates to cargoes detained by the British authorities in order to prevent them from reaching an enemy destination, and the complaint of the United States Government is summarized in paragraph 33 to the effect that the methods sought to be employed by Great Britain to obtain and use evidence of enemy destination of cargoes bound for neutral ports and to impose a contraband character upon such cargoes are without justification.

3. The wording of this summary suggests that the basis of the complaint of the United States Government is not so much that the shipments intercepted by the naval forces were really intended for use in the neutral countries to which they were despatched, as that the despatch of goods to the enemy countries has been frustrated by methods which have not been employed by belligerent nations in the past. It would seem to be a fair reply to such a contention that new devices for despatching goods to the enemy must be met by new methods of applying the fundamental and acknowledged principle of the right to intercept such trade.

4. The question whether the exercise of the right of search can be restricted to search at sea was dealt with in Sir E. Grey's note of the 7th January, 1915, and His Majesty's Government would again draw attention to the facts that information has constantly reached them of attempts to conceal contraband intended for the enemy in innocent packages, and that these attempts can only be frustrated by examination of the ship and cargo in port. Similarly, in Sir E. Grey's note of the 10th February, 1915, it was pointed out that the size of modern steamships, and their capacity to navigate the waters where the allied patrols have to operate, whatever the conditions of the weather, frequently render it a matter of extreme danger, if not of impossibility, even to board the vessels unless they are taken into calm water for the purpose. It is unnecessary to repeat what was said in that note. There is nothing that

His Majesty's Government could withdraw or that the experience of the officers of the allied fleets has tended to show was inaccurate.

5. When visit and search at sea are possible, and when a search can be made there which is sufficient to secure belligerent rights, it may be admitted that it would be an unreasonable hardship on merchant vessels to compel them to come into port, and it may well be believed that maritime nations have hesitated to modify the instructions to their naval officers that it is at sea that these operations should be carried out, and that undue deviation of the vessel from her course must be avoided. That, however, does not affect the fact that it would be impossible under the conditions of modern warfare to confine the rights of visit and search to an examination of the ship at the place where she is encountered without surrendering a fundamental belligerent right.

6. The effect of the size and seaworthiness of merchant vessels upon their search at sea is essentially a technical question, and accordingly His Majesty's Government have thought it well to submit the report of the board of naval experts, quoted by the United States Ambassador in paragraph 7 of this note, to Admiral Sir John Jellicoe for his observations. The unique experience which this officer has gained as the result of more than 18 months in command of the Grand Fleet renders his opinion of peculiar value. His report is as follows:

It is undoubtedly the case that the size of modern vessels is one of the factors which renders search at sea far more difficult than in the days of smaller vessels. So far as I know, it has never been contended that it is necessary to remove every package of a ship's cargo to establish the character and nature of her trade, &c.; but it must be obvious that the larger the vessel and the greater the amount of cargo, the more difficult does examination at sea become, because more packages must be removed.

This difficulty is much enhanced by the practice of concealing contraband in bales of hay and passengers' luggage, casks, &c., and this procedure, which has undoubtedly been carried out, necessitates the actual removal of a good deal of cargo for examination in suspected cases. This removal cannot be carried out at sea, except in the very finest weather.

Further, in a large ship the greater bulk of the cargo renders it easier to conceal contraband, especially such valuable metals as nickel, quantities of which can easily be stowed in places other than the holds of a large ship.

I entirely dispute the contention, therefore, advanced in the American note, that there is no difference between the search of a ship of 1,000 tons and one of 20,000 tons. I am sure that the fallacy of the statement must be apparent to anyone who has ever carried out such a search at sea.

There are other facts, however, which render it necessary to bring vessels into port for search. The most important is the manner in which those in command of Ger-

man submarines, in entire disregard of international law and of their own prize regulations, attack and sink merchant vessels on the high seas, neutral as well as British, without visiting the ship and therefore without any examination of the cargo. This procedure renders it unsafe for a neutral vessel which is being examined by officers from a British ship to remain stopped on the high seas, and it is therefore in the interests of the neutrals themselves that the examination should be conducted in port.

The German practice of misusing United States passports in order to procure a safe conduct for military persons and agents of enemy nationality makes it necessary to examine closely all suspect persons, and to do this effectively necessitates bringing the ship into harbor.

7. Sir John Jellicoe goes on to say:

The difference between the British and the German procedure is that we have acted in the way which causes the least discomfort to neutrals. Instead of sinking neutral ships engaged in trade with the enemy, as the Germans have done in so many cases in direct contravention of article 113 of their own Naval Prize Regulations, 1909, in which it is laid down that the commander is only justified in destroying a neutral ship which has been captured if—

(a) She is liable to condemnation, and

(b) The bringing in might expose the warship to danger or imperil the success of the operations in which she is engaged at the time—

we examine them, giving as little inconvenience as modern naval conditions will allow, sending them into port only where this becomes necessary.

It must be remembered, however, that it is not the allies alone who send a percentage of neutral vessels into port for examination, for it is common knowledge that German naval vessels, as stated in paragraph 19 of the American note, "seize and bring into German ports neutral vessels bound for Scandinavian and Danish ports."

As cases in point, the interception by the Germans of the American oil-tankers *Llama* and *Platuria* in August last may be mentioned. Both were bound to America from Sweden and were taken into Swinemunde for examination.

8. The French Ministry of Marine shares the views expressed by Sir J. Jellicoe on the question of search at sea, and has added the following statement:¹

¹ UNAUTHORIZED TRANSLATION OF PARAGRAPH 8 OF THE BRITISH MEMORANDUM.

Naval practice, as it formerly existed, consisting in searching ships on the high seas, a method handed down to us by the old navy, is no longer adaptable to the conditions of navigation at the present day. Americans have anticipated its insufficiency and have foreseen the necessity of substituting some more effective method. In the instructions issued by the American Navy Department, under date of June 20, 1898, to the cruisers of the United States, the following order is found (clause 13):

"If the latter (the ship's papers) show contraband of war, the ship should be

La pratique navale, telle qu'elle existait autrefois et consistant à visiter les navires en mer, méthode que nous a léguée l'ancienne marine, ne s'adapte plus aux conditions de la navigation actuelle. Les Américains ont pressenti son insuffisance et ont prévu la nécessité de lui en substituer une plus efficace. Dans les Instructions données par le Département de la Marine américaine, du 20 juin, 1898, aux croiseurs des États-Unis, on trouve déjà la prescription suivante:

"Si ces derniers [les papiers de bord] indiquent de la contrebande de guerre, le navire devra être saisi; sinon, il sera laissé libre, à moins qu'en raison de puissants motifs de suspicion, une visite plus minutieuse paraisse devoir être exigée."¹

Toute méthode doit se modifier en tenant compte des transformations subies par le matériel que les hommes ont à leur disposition, à la condition de rester une méthode humaine et civilisée.

L'Amirauté française estime qu'aujourd'hui un navire, pour être visité, doit être dérouté sur un port toutes les fois que l'état de la mer, la nature, le poids, le volume, l'arrimage de la cargaison suspecte, en même temps que l'obscurité et l'absence de précision des papiers de bord, rendent la visite en mer pratiquement impossible ou dangereuse pour le navire visité.

Au contraire, lorsque les circonstances inverses existent, la visite doit être faite en mer.

Le déroutement est également nécessaire et justifié, lorsque, le navire neutre entrant dans la zone ou le voisinage des hostilités, (1) il importe, dans l'intérêt même du navire neutre, d'éviter à ce dernier une série d'arrêts et de visites successives et de faire établir, une fois pour toutes, son caractère inoffensif et de lui permettre ainsi de continuer librement sa route sans être molesté; et (2) le belligérant, dans son droit de légitime défense, est fondé à exercer une surveillance particulière sur les navires inconnus qui circulent dans ces parages.

seized; if not, she should be set free unless by reason of strong grounds for suspicion a further search should seem to be requisite."

Every method must be modified having regard to the modifications of material which men have at their disposal, on condition that the method remains humane and civilized.

The French Admiralty considers that to-day a ship, in order to be searched, should be brought to a port whenever the state of the sea, the nature, weight, volume, and stowage of the suspect cargo, as well as the obscurity and lack of precision of the ship's papers, render search at sea practically impossible or dangerous for the ship searched.

On the other hand, when the contrary circumstances exist, the search should be made at sea.

Bringing the ship into port is also necessary and justified when, the neutral vessel having entered the zone or vicinity of hostilities, (1) it is a question, in the interests of the neutral ship herself, of avoiding for the latter a series of stoppages and successive visits and of establishing once for all her innocent character and of permitting her thus to continue her voyage freely and without being molested; and (2) the belligerent, within his rights of legitimate defence, is entitled to exercise special vigilance over unknown ships which circulate in these waters.

¹ Navy Department, General, No. 492, "Instruction to Blockading Vessels and Cruisers," paragraph 13.

9. The question of the locality of the search, is however, one of secondary importance. In the view of His Majesty's Government the right of a belligerent to intercept contraband on its way to his enemy is fundamental and incontestable, and ought not to be restricted to intercepting contraband which happens to be accompanied on board the ship by proof sufficient to condemn it. What is essential is to determine whether or not the goods were on their way to the enemy. If they were, a belligerent is entitled to detain them, and having regard to the nature of the struggle in which the allies are engaged they are compelled to take the most effectual steps to exercise that right.

10. The United States note then passes to the subject of the procedure in the prize courts, and maintains that courts of prize have hitherto been bound, by well-established and long-settled practice, to consider at the first hearing only the ship's papers and documents and the answers to the standing interrogatories, and to exclude all other evidence unless and until an order has been made for "further proof." Attention is drawn to the fact that the above practice, which had been followed by the British prize courts for over a century, and also by the prize courts of the United States, was changed by the prize court rules issued by His Majesty's Government at the outbreak of the present war. Upon this matter His Majesty's Government have to point out that they recognized some years ago that modern conditions had rendered the old rules obsolete, and new rules had been prepared under the guidance and supervision of the late Lord Gorell, whose experience as president of the Admiralty Division of the High Court of Justice rendered him well qualified to deal with the subject. Twenty months' experience of the working of the new rules in the prize court has served to show the utility of the changes.

11. It may further be pointed out that the practice and procedure adopted in prize courts are not settled or regulated by international law, but they are determined by each nation for itself. The procedure described in the United States note was gradually evolved in the British Courts, and, though it was adopted by the United States, it has never been followed in the prize courts of France or of any other continental nation, nor does the fact that the United States followed the British practice prevent Great Britain or any other of the allied nations from introducing such changes in the procedure as modern circumstances may call for. International law only requires that the practice in prize courts of the belligerent nation should afford a fair hearing to all claims put

forward by neutrals, and should enable the court to arrive at a just conclusion upon the evidence. Subject to that condition, each nation may regulate the practice to be followed in its prize courts. As an instance, the recent Italian Decree of 30th May, 1915, may be quoted in article 6 of which it is enacted that the prize court "will draw up rules of procedure for its future guidance." The division of prize court proceedings into two distinct phases, the first hearing and the hearing on further proof, under the early British and American practice, was merely a rule of procedure. Similarly the exclusion of extraneous evidence until the making of an order for further proof was only a rule of procedure. His Majesty's Government were, therefore, not only at liberty but felt bound to alter these rules so soon as they were advised that the rules were obsolete and might work injustice.

12. The old practice and procedure had become archaic in form and belonged to days long before the modern improvements in legal procedure were developed, days when, for instance, the parties interested were prevented from giving any evidence as witnesses in actions which affected their rights. The alterations in the prize court practice and rules were conceived and made in the spirit of those improvements. The objects with which the old practice was abolished were to prevent delay, to eliminate technicalities, and to enable the parties to prove all the true and material facts, and to place their respective cases fully before the court.

13. Moreover, it must be remembered that the conditions under which goods are conveyed by sea from one country to another have completely changed. In the days when the old rules were developed the ship's papers were a safe and satisfactory guide as to the nature and destination of the cargo. If the ship's papers had not indicated the true object and purpose of the consignment, the consignee would have been uncertain what to do with the goods when they arrived, and the commercial transaction would have been hampered, for there were in those days no fast mails or telegraph cables by which supplementary information could be conveyed. If there were no ship's papers, or if they obviously were not genuine, it was a ground for condemnation. When there was no reason to doubt them, the court could safely take the papers as indicating the real transaction. Nowadays the conditions have changed; the papers may outwardly be perfectly genuine and complete, yet they may have been prepared with the express purpose of concealing the real nature of the transaction. These misleading papers

would not, however, occasion any difficulty in dealing with the goods on their arrival, because the necessary instructions to the consignee can be conveyed by other means. Consequently the old rule that the papers on board the ship must alone be taken into consideration, and evidence from other sources excluded, is no longer practicable; indeed, the system of attributing to the ship's papers the character of final and conclusive proof upheld in the United States note would encourage shippers of contraband to falsify the papers, as they would thereby ensure absolute immunity from capture. It is in the same way due to change of circumstances that the evidence of the master and members of the crew has ceased to be of much importance in the majority of prize cases; they usually now know nothing of the real destination of the cargo they are transporting, and the more skillfully the dispatch of goods with an enemy destination is contrived, the more effectually will it be concealed from those on board.

14. It may be doubted whether any belligerent Government would be ready to forego the right of capture of goods on their way to an enemy in every case where such destination was not disclosed by the ship's papers or the evidence of those on board the ship. The difficulty which United States naval officers found even as early as 1862 in complying with the old rule is illustrated by the quotation from Lord Lyons' note of the 22d April, 1863, in connection with the case of the "Magicienne," one of the cases which is dealt with in the appendix to this note, in which he drew attention to the habit of the United States cruisers of seizing vessels on the chance that something might possibly be discovered *ex post facto* which would prevent the captors from being condemned to pay damages.

15. The contention advanced by the United States Government in paragraph 9 of their note, that the effect of this new procedure is to subject traders to risk of loss, delay, and expense so great and so burdensome as practically to destroy much of the export trade of the United States to neutral countries in Europe, is not borne out by the official statistics published in the United States—nor by the reports of the Department of Commerce. The first nine months of 1915 may be taken as a period when the war conditions must have been known to all those engaged in commerce in the United States of America, and when any injurious effects of the prize court procedure would have been recognized. During that period the exports from the United States of America to the three Scandinavian countries and Holland, the group of neutral countries

whose imports have been most affected by the naval operations of the allies and by the procedure adopted in their prize courts, amounted to 274,037,000 dollars as compared with 126,763,000 dollars in the corresponding period of 1913. It is useless to take into account the corresponding figures of 1914 because of the dislocation of trade caused by the outbreak of war, but taking the pre-war months of 1914, the figures for 1913, 1914, and 1915, were as follows:

1913.....	\$97,480,000
1914.....	88,132,000
1915.....	234,960,000

16. In the face of such figures it seems impossible to accept the contention that the new prize court procedure in Great Britain has practically destroyed much of the export trade of the United States to neutral countries in Europe, and the inference is suggested that if complaints have been made to the administration of Washington by would-be exporters, they emanated not from persons who desired to engage in genuine commerce with the neutral countries, but from those who desired to dispatch goods to the enemy under cover of a neutral destination, and who found it more difficult to conceal the real facts from the prize courts under the new procedure.

17. At this point it would have been opportune to introduce a reply to the contention that appears at first sight to be advanced in paragraph 13 of the United States note that Great Britain, while interfering with foreign trade, has increased her own with neutral countries adjacent to Germany, but this is rendered unnecessary by the explanation given by Mr. Page at the time that he presented the note, and since confirmed by a statement given out to the press at Washington that no such meaning is to be attributed to the paragraph. Moreover, the subject has been dealt with in the note which Sir E. Grey sent to Mr. Page on the 13th August, last, and again in the note¹ given to the State Department by the British Ambassador at Washington on the 27th December.²

18. The next passage in the United States note (paragraph 14) relates to the principle of noninterference with goods intended to become incorporated in the mass of merchandise for sale in a neutral country, or, as it is more commonly known, with goods intended to be incorporated in the "common stock" of the country. The United States Government urge with some force that trade statistics are not by them-

¹ Page 64, *supra*.

² Not printed.

selves conclusive in establishing an enemy destination, and that such statistics require careful scrutiny. On the other hand, the mere fact that goods, no matter of what description or in what quantities, are ostensibly destined to form part of the common stock of a neutral country, can not be regarded as sufficient evidence to prove their innocence or to justify the assertion that any attempt to raise questions as to their ulterior destination is unwarranted and inquisitorial. It is a matter of common knowledge that large quantities of supplies have since the war broke out passed to our enemy through neutral ports. It was pointed out in Sir E. Grey's note of the 17th July, 1915, that it would be mere affectation to regard some of those ports as offering facilities only for the commerce of the neutral country in which they are situated. They have, in fact, been the main avenues through which supplies have reached the enemy from all parts of the world. In the case of goods consigned to these ports, the ships' papers convey no suggestion as to their ultimate destination, and every device which ingenuity can suggest, or which can be contrived by able and unscrupulous agents, is resorted to for the purpose of giving to carefully organized arrangements for supplying the enemy the appearance of genuine transactions with a neutral country. His Majesty's Government can not bring themselves to believe that it is the desire of the United States Government that traffic of this kind should be allowed to proceed without hindrance.

19. The question whether the goods despatched to a neutral port were intended to become part of the mass of merchandise for sale in that country is one of fact. Quite apart from the conclusions suggested by the figures, there is a considerable body of evidence that many of the goods which have been shipped to neutral ports during the war were never intended to become part of the common stock of that country, but were earmarked from the beginning for re-export to the enemy countries. If they had been intended to form part of the common stock they would have been available for use in that country; yet at one time in the early days of the allies' efforts to intercept all the commerce of the enemy, when they found it necessary to hold up certain cargoes of cotton on their way to Sweden, it transpired that though the quays and the warehouses of Gothenburg were congested with cotton, there was none available for the use of the spinners in Sweden.

20. Confirmation of the fact that many of the shipments to neutral ports were never intended to become part of the common stock of the country is also to be found in some of the contracts which have come to

light since the policy of intercepting all commodities on their way to or from the enemy country was introduced. One of those which has been disclosed is a contract with a firm in Germany for the sale of no less than 50,000 bales of cotton linters at a price which was about double that which linters were fetching in any other country than Germany. The whole quantity was to be shipped to neutral ports. Various shipments made under this contract have been held up, and in all cases the goods were shipped with papers and under conditions which concealed the enemy destination altogether. Sweden is not in normal times a large importer of cotton linters, and it certainly would not be reasonable to maintain that, because the ship's papers did not disclose this contract of sale or the enemy destination, shipments of linters under this contract should be regarded as intended to become part of the mass of merchandise for sale in Sweden.

21. However sound the principle that goods intended for incorporation in the common stock of a neutral country should not be treated as contraband may be in theory, it is one that can have but little application to the present imports of the Scandinavian countries. The circumstances of a large number of these shipments negative any conclusion that they are *bona fide* shipments for the importing countries. Many of them are made to persons who are apparently nominees of enemy agents, and who never figured before as importers of such articles. Consignments of meat products are addressed to lightermen and dock laborers. Several thousands of tons of such goods have been found documented for a neutral port and addressed to firms which do not exist there. Large consignments of similar goods were addressed to a baker, to the keeper of a small private hotel, or to a maker of musical instruments. Will it be contended that such imports ought to be regarded as *bona fide* shipments intended to become part of the common stock of the country?

22. Similarly several of the shipments which the allied naval forces are now obliged to intercept consist of goods for which there is in normal circumstances no sale in the importing country, and it has already been pointed out in a recent decision in the British prize court that the rule about incorporation in the common stock of a neutral country can not apply to such goods. The same line was taken in some of the decisions in the United States prize courts during the Civil War.

23. In the presence of facts such as those indicated above, the United States Government will, it is believed, agree with His Majesty's Government that no belligerent could in modern times submit to be bound by a

rule that no goods could be seized unless they were accompanied by papers which established their destination to an enemy country, and that all detentions of ships and goods must uniformly be based on proofs obtained at the time of seizure. To press any such theory is tantamount to asking that all trade between neutral ports shall be free, and would thus render nugatory the exercise of sea power and destroy the pressure which the command of the sea enables the allies to impose upon their enemy.

24. It is, of course, inevitable that the exercise of belligerent rights at sea, however reasonably exercised, must inconvenience neutral trade, and great pressure is being put upon the United States Government to urge the technical theory that there should be no interference at all with goods passing between neutral ports, and thus to frustrate the measures which the allies have taken to intercept commerce on its way to or from the enemy. It may not be out of place to recall that the position is somewhat similar to that which arose in the United States in the war between the North and the South. All students of international law and of military history are aware that the blockade of the Southern States was the most important engine of pressure possessed by the North, and that it was on the point of being rendered ineffective through the use by blockade runners of neutral ports of access. It is well known that the United States Government took immediate steps to stop such trade, and that the United States Supreme Court extended the doctrine of continuous voyage so as to cover all cases where there was an intention to break the blockade by whatever means, direct or indirect.

25. The configuration of the European coast is such as to render neutral ports the most convenient for the passage of German commerce, and just as it was essential to the United States in the Civil War to prevent their blockade from being nullified by the use of neutral ports of access, so it is essential to the Allied Powers to-day to see that the measures which they are taking to intercept enemy commerce shall not be rendered illusory by the use of similar ports. The instructions issued by Mr. Seward during the Civil War show that he regarded the continuance of the blockade against the Southern States as absolutely vital, and he repeatedly instructed American representatives abroad to assure foreign governments that, while he was fully alive to the great inconveniences caused by the cutting off of the supplies of cotton from Europe, yet he could not, as American Secretary of State, "sacrifice the Union for cotton." The American representatives in Europe in their published

reports again and again expressed the opinion that, whatever might be the policy of the Government, the peoples of Europe would never consent to side with the Power that upheld slavery against the Power which represented freedom. Their opinion was entirely justified by the result, and in fact neither the French nor the English Governments took any decided steps toward breaking the blockade, in spite of the tremendous pressure which was brought to bear upon them, and the terrible suffering of the cotton operatives of this country. Indeed, President Lincoln himself acknowledged, in a message to the laboring classes of Manchester, his high sense of the spirit of self-sacrifice which they had exhibited in their policy toward America. His Majesty's Government have, of course, no desire to enter upon any examination of the issues involved in that historic conflict, but no one will question the respect which is due to the determination then shown by the French and British peoples not to range themselves on what they believed to be the side of slavery or consent to action which they held might be fatal to the democratic principle of government, however great the pressure exerted by commercial interests might be.

26. His Majesty's Government desire to assure the United States Government that every effort is being made to distinguish between *bona fide* neutral commerce and that which is really intended for the enemy. The task is one of exceptional difficulty, and the statistics show that a great volume of imports intended for the enemy must have passed through adjacent neutral countries during the war. As an instance, the imports of lard into Sweden during the year 1915 may be taken. In that year the total import of lard into Sweden from all sources was 9,318 tons, of which no less than 9,029 tons came from the United States. In the three years before the war, 1911-13, the annual average import of the same article was only 888, of which 638 tons came from the United States. It is difficult to believe that the requirements of Sweden in respect of lard, even when every allowance is made for possible diversions of trade due to the war, could suddenly have increased more than tenfold in 1915. The inference, indeed, is irresistible that the greater part of these imports must have had another and an enemy destination.

27. It may readily be conceded that the efforts to intercept enemy commerce passing through neutral countries can not fail to produce some soreness and dissatisfaction. His Majesty's Government have therefore spared no pains in their endeavor to mitigate the inconvenience which must inevitably be occasioned to neutral traders. In pursuance of this

object they are resorting to the policy of ascertaining the total requirements of the country concerned, and intercepting such imports as may be presumed, because they are in excess of those requirements, to form no part of the normal trade of the country, and therefore to be destined for the enemy.

28. The total net imports of a particular commodity by any country in normal times give a satisfactory index to its requirements, and where these are provided for on a generous scale, suitable allowance being made for the commercial dislocation inseparable from a state of war, it is not unfair, after eighteen months of war and in the light of the experience which has now been gained, to invite the prize court to regard with suspicion further consignments of any kind of goods of which the imports have already exceeded a figure ample to satisfy the country's requirements.

29. It ought not to be difficult to arrive at a satisfactory understanding with all parties on the subject, as the official statistics afford information not only as to the quantities of particular commodities required by neutral countries, but also of the sources from which they are usually obtained. Arrangements of this nature will be of great service in removing the friction and misunderstanding which now arise, as it will help the commercial classes in the neutral countries to form an idea of the limits within which their trading operations are not likely to encounter difficulty.

30. The adoption of such a system, although not unattended by difficulty, has been greatly facilitated by agreements made with the organizations which control imports in the neutral countries, as well as by arrangements with some of the shipping lines, and with several of the interests concerned in the import of particular commodities from neutral countries. His Majesty's Government intend to avail themselves of every opportunity which may present itself in order to bring about a more extended adoption of this equitable system.

31. Moreover, the fact that a neutral country adjacent to the enemy territory is importing an abnormal quantity of supplies or commodities, of which her usual imports are relatively small, of which the enemy stands in need and which are known to pass from that neutral country to the enemy, is by itself an element of proof on which the prize court would be justified in acting, unless it is rebutted by evidence to the contrary. Hostile destination being a question of fact, the court should take all the relevant circumstances into consideration in arriving at

its decision, and there seems to be no reason in principle for limiting the facts at which the court is entitled to look in a case of this kind.

32. The second section of the United States note (paragraphs 16-24) deals with the validity of the measures against enemy commerce which were embodied in the British Order in Council of the 11th March, 1915, and in the French Decree of the 13th March, and maintains that these measures are invalid, because they do not comply with the rules which have been gradually evolved in the past for regulating a blockade of enemy ports, and which were summarized in concrete form in articles 1-21 of the Declaration of London.

33. These rules can only be applied to their full extent to a blockade in the sense of the term as used in the Declaration of London. His Majesty's Government have already pointed out that a blockade which was limited to the direct traffic with enemy ports would in this case have but little, if any, effect on enemy commerce, Germany being so placed geographically that her imports and exports can pass through neutral ports of access as easily as through her own. However, with the spirit of the rules, His Majesty's Government and their allies have loyally complied in the measures they have taken to intercept German imports and exports. Due notice has been given by the allies of the measures they have taken, and goods which were shipped or contracted for before the announcement of the intention of the allies to detain all commerce on its way to or from the enemy countries have been treated with great liberality. The objects with which the usual declaration and notification of blockade are issued have therefore been fully achieved. Again, the effectiveness of the work of the allied fleets under the orders referred to is shown by the small number of vessels which escape the allied patrols. It is doubtful whether there has ever been a blockade where the ships which slipped through bore so small a proportion to those which were intercepted.

34. The measures taken by the allies are aimed at preventing commodities of any kind from reaching or leaving Germany, and not merely at preventing ships from reaching or leaving German ports. His Majesty's Government do not feel, therefore, that the rules set out in the United States note need be discussed in detail. The basis and the justification of the measures which the allies have taken were dealt with at length in Sir E. Grey's note of the 23rd July,¹ and there is no need to repeat what was there said. It need only be added that the rules ap-

¹ See Special Supplement for July, 1915, p. 157.

plicable to a blockade of enemy ports are strictly followed by the allies in cases where they apply—as, for instance, in the blockades which have been declared of the Turkish coast of Asia Minor or of the coast line of German East Africa.

35. Some further comment is perhaps necessary upon the statements made in paragraph 19 of the United States note, where it is said that, because German coasts are open to trade with Scandinavian countries, the measures of the allies fail to comply with the rule that a blockade must be effective. It is no doubt true that commerce from Sweden and Norway reaches German ports in the Baltic in the same way that commerce still passes to and from Germany across the land frontiers of adjacent states, but this fact does not render the measures which France and Great Britain are taking against German trade the less justifiable. Even if these measures were judged with strict reference to the rules applicable to blockades, a standard by which, in their view, the measures of the allies ought not to be judged, it must be remembered that the passage of commerce to a blockaded area across a land frontier or across an inland sea has never been held to interfere with the effectiveness of the blockade. If the right to intercept commerce on its way to or from a belligerent country, even though it may enter that country through a neutral port, be granted, it is difficult to see why the interposition of a few miles of sea as well should make any difference. If the doctrine of continuous voyage may rightly be applied to goods going to Germany through Rotterdam, on what ground can it be contended that it is not equally applicable to goods with a similar destination passing through some Swedish port and across the Baltic or even through neutral waters only? In any case, it must be remembered that the number of ships reaching a blockaded area is not the only test as to whether it is maintained effectively. The best proof of the thoroughness of a blockade is to be found in its results. This is the test which Mr. Seward, in 1863, when Secretary of State, maintained should be applied to the blockade of the Confederate States. Writing to Mr. Dayton, the United States Minister in Paris, on the 8th March, he said: "But the true test of the efficiency of the blockade will be found in its results. Cotton commands a price in Manchester and in Rouen and Lowell four times greater than in New Orleans. * * * Judged by this test of results, I am satisfied that there never was a more effective blockade." Similar language was used in the despatch to Mr. Adams in London. The great rise in price in Germany of many articles, most necessary to the enemy in the prose-

cution of the present war, must be well known to the United States Government.

36. Attention is drawn in the same paragraph to the fact that cotton has since the measures announced on the 11th March been declared to be contraband, and this is quoted as an admission that the blockade is ineffective to prevent shipments of cotton from reaching the enemy countries. The reason for which cotton was declared to be contraband is quite simple. Goods with an enemy destination are not, under the Order in Council, subject to condemnation; they are restored to the owner. Evidence accumulated that it was only for military purposes that cotton was being employed in Germany. All cotton was laid under embargo, and its use in the textile factories was prohibited except in very special cases or by military permission. In these circumstances it was right and proper that cotton with an enemy destination should be subjected to condemnation and not merely prevented from passing, and it was for this reason that it was declared to be contraband. The amount of cotton reaching the enemy country has probably not been affected in the least by its being made contraband on the 20th August, as supplies from overseas had been cut off effectually before that date. Even the "Konfektionär," a German technical paper, dealing with the textile industry, admitted in its issue of the 1st July that not a gramme of cotton had found its way into Germany for the preceding four weeks.

37. Before leaving the question of the validity of the measures which France and Great Britain have taken against enemy commerce, reference must be made to the statement made in the 33rd paragraph of the United States note that "the curtailment of neutral rights by these measures, *which are admittedly retaliatory, and therefore illegal*, cannot be admitted. His Majesty's Government are quite unable to admit the principle that to the extent that these measures are retaliatory they are illegal. It is true that these measures were occasioned and necessitated by the illegal and unjustifiable proclamation issued by the German Government on the 4th February, 1915, constituting the waters surrounding Great Britain, including the whole English Channel, a "war zone," into which neutral vessels would penetrate at their peril, and in which they were liable to be sunk at sight. This proclamation was accompanied by a memorandum alleging that the violation of international law by Great Britain justified the retaliatory measures of the German Government owing to the acquiescence of neutrals in the action of this country. The legitimacy of the use of retaliatory measures was

thus admitted by the Germans, although His Majesty's Government and their allies strongly deny the facts upon which their arguments were based. But although these measures may have been provoked by the illegal conduct of the enemy, they do not, in reality, conflict with any general principle of international law, of humanity, or civilization; they are enforced with consideration against neutral countries, and are therefore juridically sound and valid.

38. The more abstract question of the legitimacy of measures of retaliation adopted by one belligerent against his opponent, but affecting neutrals also, is one of which His Majesty's Government think the discussion might well be deferred. It is a subject of considerable difficulty and complexity, but His Majesty's Government are surprised to notice that the Government of the United States seem to regard all such measures of retaliation in war as illegal if they should incidentally inflict injury upon neutrals. The advantage which any such principle would give to the determined law-breaker would be so great that His Majesty's Government can not conceive that it would commend itself to the conscience of mankind. To take a simple instance, suppose that one belligerent scatters mines on the trade routes so as to impede or destroy the commerce of his enemy—an action which is illegitimate and calculated to inflict injury upon neutrals as well as upon the other belligerents—what is that belligerent to do? Is he precluded from meeting in any way this lawless attack upon him by his enemy? His Majesty's Government can not think that he is not entitled by way of retaliation to scatter mines in his turn, even though in so doing he also interferes with neutral rights. Or take an even more extreme case. Suppose that a neutral failed to prevent his territory being made use of by one of the belligerents for warlike purposes, could he object to the other belligerent acting in the same way? It would seem that the true view must be that each belligerent is entitled to insist on being allowed to meet his enemy on terms of equal liberty of action. If one of them is allowed to make an attack upon the other regardless of neutral rights, his opponent must be allowed similar latitude in prosecuting the struggle, nor should he in that case be limited to the adoption of measures precisely identical with those of his opponent.

39. The third section of the United States note deals with the question of the means of redress which are open to United States citizens for any injury or loss which they suffer as the consequence of an unjustifiable exercise of the belligerent rights of the allies. The contention put for-

ward in these paragraphs appears to be that there is no obligation on neutral individuals who maintain they have been damnified by the naval operations of the belligerents to appeal to the prize courts for redress, because the prize courts are fettered by municipal enactments which are binding upon them, whereas the very question which those individuals wish to raise is the validity of such enactments when tested by the canons of international law.

40. These arguments seem to be founded on a misunderstanding of the situation, and to overlook all that was said in Sir E. Grey's note of the 23rd July on this subject. The extract there quoted from the decisions given by Lord Stowell shows that in Great Britain the prize court has jurisdiction to pronounce a decision on the very point which the United States note indicates, viz., whether an order or instruction to the naval forces issued by His Majesty's Government is inconsistent with those principles of international law which the court is bound to apply in deciding cases between captors and claimants, and is entitled, if satisfied that the order is not consistent with those principles, to decline to enforce it. The jurisdiction of the prize court in Great Britain therefore affords every facility to a United States citizen whose goods are detained and dealt with under the Order in Council of the 11th March to take his case to the prize court and there claim that the order under which the naval authorities have acted is invalid, and that its enforcement entitles him to redress and compensation.

41. In some matters, it is true, that the prize court is bound by the municipal enactments of its own country. It is the territorial sovereign who sets up the court, and who therefore determines the matters which are incidental to its establishment. His Majesty's Government have already pointed out that each country determines for itself the procedure which its prize courts shall adopt; but certainly under the British system—and His Majesty's Government were under the impression that, in this matter, the United States had taken the same course—the substantive law which the court applies as between captor and claimant consists of the rules and principles of international law, and not the municipal legislation of the country. If reference is made to the case of the *Recovery* (6 C. Rob. 341), it will be seen that Lord Stowell refused to enforce in the prize court against a neutral the British Navigation Laws.

42. Sir E. Grey's note of the 23rd July was intended to make this point clear, and so far from having intended to "give the impression that

His Majesty's Government do not rely upon its soundness or strength," His Majesty's Government wish to lay stress on the fact that the principle that no encroachment should be made upon the jurisdiction and the competence of the prize court is one which they regard as vital.

43. Apart from the cases where a question may arise as to the validity of orders or instructions on which naval actions was based, circumstances frequently give rise to claims for compensation on behalf of individuals who consider they have suffered unjustly from the exercise of rights *jure belli*, as, for instance, from the delay in releasing their ships or so forth. His Majesty's Government desire, therefore, to repeat what was said in Sir E. Grey's note of the 10th February, that the British prize court rules give the court ample jurisdiction to deal with any claims for compensation by a neutral arising from the interference with a ship or goods by the naval forces.

44. His Majesty's Government attach the utmost importance to the maintenance of the rule that, when an effective mode of redress is open to individuals in the courts of a civilized country by which they can obtain adequate satisfaction for any invasion of their rights, recourse must be had to the mode of redress so provided before there is any scope for diplomatic action. This is the course which His Majesty's Government have always themselves endeavored to follow in previous wars in which Great Britain has been neutral, and they have done so because it is the only principle which is correct in theory and which operates with justice and impartiality between the more powerful and the weaker nations. To that principle His Majesty's Government propose to adhere now that they are themselves the belligerent, and that it is against them that the claims are advanced.

45. Enquiry has been made into the four cases of the *Magicienne*, the *Don José*, the *Labuan*, and the *Saxon*, mentioned in the United States note (paragraph 27) as instances during the American Civil War where His Majesty's Government put forward, through the diplomatic channel, claims for damages for seizure and detention of British ships alleged to have been made without legal justification. In two of these instances it is said at the time the demands were made the cases were before the American prize courts for adjudication. The results of the enquiry are contained in an appendix to this note. The cases have there been dealt with in some detail because they are cited as indicating that it was the practice of Her Majesty's Government during the American Civil War to claim through the diplomatic channel damages for seizures of

British ships alleged to have been made without legal justification. The cases do, in fact, establish the very proposition for which His Majesty's Government are now contending, viz., that in the cases where the prize court has power to grant relief there is no ground for putting forward claims through the diplomatic channel. In two of the cases the United States Government themselves discontinued the prize court proceedings and admitted the right to compensation, and in the others they maintained the jurisdiction of the prize court, and Her Majesty's Government acquiesced.

46. The statements contained in paragraph 31 of the United States note have led to a careful review of the practice which is now followed in the British courts with regard to vessels and cargoes which are released. It has been ascertained that in the case of vessels brought in for examination and allowed to proceed without discharging any part of their cargo no dues are charged. Where part of the cargo is discharged and passes into the jurisdiction of the prize court, the terms of the release are, of course, subject to the control of the court, and His Majesty's Government are therefore hardly in a position to give any definite undertaking with regard to the incidence of the expenses and charges which may have been incurred. In general, however, they realize that, in cases where goods are released and it transpires that there were no sufficient grounds for their seizure, no dues or charges should fall upon the owner. The statement that waivers of the right to put forward claims for compensation are exacted as a condition of release is scarcely accurate, but they are prepared to concede that such waivers would be a hardship to the owners of the goods released. In these circumstances His Majesty's Government will abstain from exacting any such undertakings in future, and will not enforce those which have already been given.

47. Attached to the United States note are voluminous appendices containing lists of various vessels of all nationalities whose cargoes have been examined by the naval forces of the allies. These lists are a strong testimony to the vigor and effectiveness with which the naval forces are carrying out the measures which the allies have deemed it necessary to take against the commerce of their enemies. Perhaps the most striking conclusion which can be drawn from these lists is the rapidity with which the vessels are released and the very small amount of loss and inconvenience to which they are, as a rule, exposed.

48. Into the facts of each particular case His Majesty's Government

feel sure the Government of the United States will agree that there is no need for them to enter, for the lists comprise only ships dealt with by the British authorities; no corresponding lists are given of those dealt with by the French forces, and a detailed examination of these cases would be of no assistance in explaining the general principles which are being followed and which are common to both the allies. Furthermore, any discussion of the cases in this note might prejudice the chances of the claimants of recovering compensation through the prize court in cases where they consider that they are entitled to redress.

49. Finally His Majesty's Government desire to assure the United States Government that they will continue their efforts to make the exercise of what they conceive to be their belligerent rights as little burdensome to neutrals as possible. Some suggestions have already been referred to in this note which, it is believed, would have that effect, and they are quite ready to consider others. For instance, they have already appointed an impartial and influential commission to examine whether any further steps could be taken to minimize the delays involved in the present methods of dealing with neutral vessels. Again, it has been suggested that it would be a great commercial convenience if neutral shippers knew, before they made arrangements for ship space and for financing their consignments, whether they would be held by up belligerent patrols. A scheme is already in operation which ought to succeed in accomplishing this object. Other suggestions of a like nature might perhaps be made, and the allied governments would be prepared to give favorable consideration to any proposal for the alleviation of the position of neutrals, provided that the substantial effectiveness of the measures now in force against enemy commerce would not be thereby impaired.

50. His Majesty's Government are of opinion that it is to such mitigations that the allies and the neutrals concerned should look for the removal of the difficulties now encountered rather than to abrupt changes either in the theory or application of a policy based upon admitted principles of international law carefully adjusted to the altered conditions of modern warfare. Some of the changes which have been advocated would, indeed, if adopted in their entirety, render it impossible for the allies to persist with effect in their endeavors to deprive the enemy of the resources upon which he depends for the prosecution of operations carried on both by land and sea with complete disregard of the claims of humanity; for instance, the practice of visiting exclusively

at sea, instead of in port, vessels reasonably suspected of carrying supplies to the enemy, or, again, the adoption of the principle that goods notoriously destined for the enemy may not be intercepted if they happen to be carried by a neutral vessel and addressed to a neutral consignee could not fail to have this result.

51. His Majesty's Government have noted with sincere satisfaction the intimation contained in the concluding passages of the United States note of the intention of the United States to undertake the task of championing the integrity of neutral rights. The first act of this war was the unprovoked invasion by the enemy of neutral territory—that of Belgium—which he was solemnly pledged by treaty to protect. The occupation of this territory was accompanied by abominable acts of cruelty and oppression in violation of all the accepted rules of war, atrocities the record of which is available in published documents; the disregard of neutral rights has since been extended to naval warfare by the wanton destruction of neutral merchant ships on the high seas, regardless of the lives of those on board. In every theatre and in each phase of the war has been visible the same shocking disregard by the enemy of the rights of innocent persons and neutral peoples. His Majesty's Government would welcome any combination of neutral nations, under the lead of the United States, which would exert an effective influence to prevent the violation of neutral rights, and they cannot believe that they or their allies have much to fear from any combination for the protection of those rights which takes an impartial and comprehensive view of the conduct of this war and judges it by a reasonable interpretation of the generally accepted provisions of international law and by the rules of humanity that have hitherto been approved by the civilized world.

APPENDIX.

CASES OF THE "MAGICIENNE," THE "DON JOSÉ," THE "LABUAN," AND THE "SAXON."

1. The *Magicienne* was captured on the 27th January, 1863, about 400 miles from the Cape Verde Islands, while on a voyage to Matamoros. She was taken to Key West and released on the 2nd March, the district attorney of the United States stating that he could see nothing in the depositions, invoices, and other papers on which to base a demand for condemnation or even for a certificate of probable cause of seizure. On the 3rd April Lord Lyons was instructed to ask for com-

pensation, and did so in a note to Mr. Seward, dated the 22nd April. In reply, Mr. Seward admitted that compensation ought to be made. The course of procedure suggested by Mr. Seward was adopted, and ultimately the compensation was fixed at 8,645 dollars. No suggestion was made that any other mode of redress was open to the injured party or that it was not a case where compensation should be asked for through the diplomatic channel. On the contrary, the admission that the seizure was illegal was made by the United States, and Mr. Seward himself admitted that compensation should be made.

2. The *Don José* was a small British schooner of 35 tons, which was captured on the 2nd July, 1863, off Cuba, when on a voyage to Havana. She was released on the 15th July because the district attorney was unable, on examination of the ship's papers and of the depositions of the witnesses, to find any grounds on which to file a libel against the vessel. On the 2nd January, 1864, Lord Lyons wrote a note to Mr. Seward, pointing out that the seizure appeared to have been one of a very unjustifiable character, and saying that he hoped that the United States Government would have no difficulty in admitting that compensation was due. Mr. Seward, in his reply, admitted that the case seemed to be a strong one. On the 18th May Lord Lyons again pressed for compensation and based his claim upon the ground that the United States law officer could find no ground for bringing the case before the prize court, and that it must be presumed that the court, if the case had come before it, would, in the execution of its duty, have awarded costs and damages. Mr. Seward promised to give the matter attentive consideration. He does not appear to have suggested that the claimant could himself have applied to the prize court for compensation, or to have challenged the point urged by Lord Lyons that it was the failure of the United States authorities to bring the case before the prize court which deprived the court of the opportunity of awarding redress.

3. The case of the *Labuan* gave rise to a voluminous diplomatic correspondence. She was a British steamer which was seized by the United States steamer *Portsmouth* on the 1st February, 1862, when lying off the mouth of the Rio Grande within the limits of the port of Matamoros and probably therefore within the territorial waters of Mexico. She had landed a cargo of British goods and was loading a cargo of cotton and other articles. Copies of the reports which Lord Lyons had received as to this case were given to Mr. Seward privately with a suggestion that the United States Government might perhaps think it advisable

to release the vessel and give her compensation without subjecting the vessel to judicial proceedings. In another unofficial communication Mr. Seward admitted that a perusal of the information in the Navy Department had not satisfied him that the capture was legal, but preferred that nothing should be done until a judicial decision had been given. The official correspondence that ensued dealt mainly in its earlier stages with the contention urged by Her Majesty's Government that unless the United States Government were going to maintain that the capture was justifiable and valid, it was unreasonable to expose the parties interested to the delay and the expense of judicial proceedings. The United States Government, however, insisted that the case must take its course in the prize court, and in the circumstances Her Majesty's Government could only acquiesce. The trial took place on the 20th May in the District Court at New York, when the immediate release of vessel and cargo was ordered, and the question of damages against the captors reserved for consideration. The subsequent official correspondence was occupied chiefly with the delays in getting the damages assessed. As early as the 9th April, 1863, Mr. Seward wrote to Lord Lyons a note reviewing the whole correspondence, in which he said "I freely admit that I believe the claimants entitled to damages and cost," but he maintained that it was regular and legal to wait for the court to decree them, and that the court would decide the question with more exact justice than could the Executive Government. The period which elapsed before the prize court dealt with the damages payable certainly justified the complaints which Lord Lyons was instructed to make, for the decree awarding 141,902 dollars was not issued until March, 1868, more than six years after the capture, nor was the sum paid until a further period of over two years had elapsed.

4. The case of the *Saxon* also gave rise to a voluminous diplomatic correspondence, but I am at a loss to know what ground there can be for citing the action of Her Majesty's Government in this case as a precedent for maintaining the right of a Government to ignore the prize court and to claim compensation through the diplomatic channel. The *Saxon* was seized on the 29th October, 1863, by the United States ship *Vanderbilt* while lying at anchor off Penguin Island, on the coast of South Africa. Some confusion occurred at the time of capture, and the mate of the *Saxon* was shot dead by an officer of the *Vanderbilt*. The vessel was sent to New York, and arrived there on the 22nd December. Some doubt seems to have arisen as to why the vessel had been

captured, and Lord Lyons was instructed by Lord Russell early in 1864 to ask the United States Government either to direct the immediate release of the *Saxon*, with proper compensation to the owners, or at least to explain the ground on which her seizure and detention were supposed to be justified. Meanwhile further information had come into the possession of Her Majesty's Government, and on the 15th February Lord Lyons was instructed, on the advice of the law officers of the Crown, that Her Majesty's Government saw no ground for seeking to withdraw the case from the jurisdiction of the prize court. On the 7th March Judge Betts, in the District Court at New York, decreed the restitution of the vessel and cargo free of all costs, charges, and expenses, reserving for future consideration the question of probable cause of seizure. Lord Lyons was subsequently informed that Her Majesty's Government saw no reason to complain of this sentence. They understood the question of damages still to be open, but they were not prepared to say that, if these should be refused, there would, in the peculiar circumstances of the case, be any necessity for an official complaint on their part. The only suggestion which Her Majesty's Government made through the diplomatic channel as to payment of compensation was a request that some relief might be granted to the widow of the mate of the *Saxon* who was shot by an officer of the *Vanderbilt*, but the request was refused with asperity.

The Secretary of State to the British Ambassador.

DEPARTMENT OF STATE,
Washington, May 10, 1916.

EXCELLENCY: I have the honor to acknowledge the receipt of Your Excellency's note of April 22, 1916,¹ in which you refer to the fact that your Government, in December last, promised not to detain certain vessels belonging to the American Transatlantic Company, unless they should carry contraband, pending the decision of the British Prize Court in the cases of the steamer *Hocking* and the steamer *Genesee* which also belong to this company, and in which you state that Sir Edward Grey has instructed you to inform me that the vessels which have not been seized can no longer enjoy immunity from seizure unless certain assurances respecting their use are given by the company.

¹ Not printed.

These vessels are owned by an American corporation organized under laws which presumably are similar to British laws respecting incorporation. In the name of this corporation these vessels were registered under the American flag, in accordance with laws which it is understood by this Government are similar to British laws governing registration of vessels under the British flag. Under the laws of the United States, the American Transatlantic Company is regarded as a citizen of the United States and must doubtless be so regarded in accordance with the custom of nations.

British Prize Court decisions in relation to the ownership of different kinds of property, including vessels, appear to make it clear that a British corporation is British in character regardless of what the political nationality of its shareholders may be.

This Government has observed that in a recent case a British Prize Court, applying an apparently well-established rule, condemned a vessel flying the German flag and refused an application of neutral claimants to establish that they were the beneficial owners of the vessel, owning the entire capital stock of the nominal owners, a subsidiary concern established according to the laws of Germany. The court ruled that the fact sought to be proved would not benefit the claimants.

This Government has also observed that the British authorities have in several instances requisitioned vessels flying the British flag, although the entire beneficial interest in them was owned by American citizens, and in connection with requests on the part of such beneficial owners, for the release of such vessels, the British Government apparently has taken the position that the vessels, flying the British flag and being owned by British corporations, must, of course, be regarded as British and not as American vessels.

It appears, therefore, from different cases of the character just mentioned, that the British judicial and administrative authorities have as a rule attached no importance to beneficial ownership in determining the nationality of the vessels owned by corporate organizations but have uniformly proceeded on the theory that nationality in each case must be determined by the flag the vessels fly or by their corporate ownership.

On the other hand, the British authorities in now seeking to condemn the ships of the American Transatlantic Company, which are owned by an American corporation and fly the American flag, on the ground, as they state, that they believe these vessels to be entirely, or to a large extent, enemy owned, apparently attach great importance to

beneficial ownership and no importance to the flag or corporate ownership.

In this relation it should be observed that the company has presented to this Government evidence to show that all the company's stock is owned by American citizens. This Government has no information that the stock is not so owned.

Having in mind these and other facts as well as the applicable principles of international law, the seizure of these vessels appeared to this Government arbitrary and unwarranted. However, after having informed the British Government to that effect, this Government decided to let the matter rest after receiving from the British Government a promise that they were, in the language of a note addressed by Sir Edward Grey to the American Ambassador at London, "willing not to capture the remaining ships of the company, unless they were found to be carrying contraband, until the Prize Court has given a decision in the cases which are now pending, provided of course that the proceedings in court are not unduly prolonged by the defendants." The owners of the vessels have informed the Department that they have complied strictly with the British Government's conditions, and the Department has no information to the contrary.

If any one of these vessels should carry contraband, the British Government would be warranted in exercising their belligerent right to detain such vessel. But the carrying of contraband by one of these vessels would, of course, furnish no legal justification for interference with other vessels carrying innocent cargoes, and the observance by the British Government of the express language of their promise respecting the immunity of these vessels would prevent any such interference.

I observe from your note that you have been instructed by Sir Edward Grey to inform me that "the immunity from capture at present enjoyed by the American Transatlantic Company's vessels can only be continued provided that an assurance is given by the company that the vessels will not trade with Scandinavia or Holland."

Under these circumstances, before giving further consideration to the matters referred to in your note I would like to be informed whether, as would appear from your note, it is the intention of the British Government to repudiate their promise respecting the treatment of these vessels which in good faith has been relied on by this Government and by the owners of these vessels.

I am, etc.,

ROBERT LANSING.

The Acting Secretary of State to Ambassador W. H. Page.

[Telegram.]

DEPARTMENT OF STATE,
Washington, July 26, 1916.

You are instructed to deliver to Sir Edward Grey a formal note on the subject of the Enemy Trading Act, textually as follows:

The announcement that His Britannic Majesty's Government has placed the names of certain persons, firms, and corporations in the United States upon a proscriptive "blacklist" and has forbidden all financial or commercial dealings between them and citizens of Great Britain has been received with the most painful surprise by the people and Government of the United States, and seems to the Government of the United States to embody a policy of arbitrary interference with neutral trade against which it is its duty to protest in the most decided terms.

The scope and effect of the policy are extraordinary. British steamship companies will not accept cargoes from the proscribed firms or persons or transport their goods to any port, and steamship lines under neutral ownership understand that if they accept freight from them they are likely to be denied coal at British ports and excluded from other privileges which they have usually enjoyed, and may themselves be put upon the blacklist. Neutral bankers refuse loans to those on the list and neutral merchants decline to contract for their goods, fearing a like proscription. It appears that British officials regard the prohibitions of the blacklist as applicable to domestic commercial transactions in foreign countries as well as in Great Britain and her dependencies, for Americans doing business in foreign countries have been put on notice that their dealings with blacklisted firms are to be regarded as subject to veto by the British Government. By the same principle Americans in the United States might be made subject to similar punitive action if they were found dealing with any of their own countrymen whose names had thus been listed.

The harsh and even disastrous effects of this policy upon the trade of the United States and upon the neutral rights upon which it will not fail to insist are obvious. Upon the list of those proscribed and in effect shut out from the general commerce of the world may be found American concerns which are engaged in large commercial operations as importers of foreign products and materials and as distributors of American products and manufactures to foreign countries and which constitute im-

portant channels through which American trade reaches the outside world. Their foreign affiliations may have been fostered for many years, and when once broken can not easily or promptly be reestablished. Other concerns may be put upon the list at any time and without notice. It is understood that additions to the proscription may be made "when- ever on account of enemy nationality or *enemy association* of such persons or bodies of persons it appears to His Majesty expedient to do so." The possibilities of undeserved injury to American citizens from such measures, arbitrarily taken, and of serious and incalculable interruptions of American trade are without limit.

It has been stated on behalf of His Majesty's Government that these measures were aimed only at the enemies of Great Britain and would be adopted and enforced with strict regard to the rights of neutrals and with the least possible detriment to neutral trade, but it is evident that they are inevitably and essentially inconsistent with the rights of the citizens of all the nations not involved in war. The Government of the United States begs to remind the Government of His Britannic Majesty that citizens of the United States are entirely within their rights in attempting to trade with the people or the Governments of any of the nations now at war, subject only to well-defined international practices and understandings which the Government of the United States deems the Government of Great Britain to have too lightly and too frequently disregarded. There are well-known remedies and penalties for breaches of blockade, where the blockade is real and in fact effective, for trade in contraband, for every unneutral act by whomsoever attempted. The Government of the United States can not consent to see those remedies and penalties altered or extended at the will of a single power or group of powers to the injury of its own citizens or in derogation of its own rights. Conspicuous among the principles which the civilized nations of the world have accepted for the safeguarding of the rights of neutrals is the just and honorable principle that neutrals may not be condemned nor their goods confiscated except upon fair adjudication and after an opportunity to be heard in prize courts or elsewhere. Such safeguards the blacklist brushes aside. It condemns without hearing, without notice, and in advance. It is manifestly out of the question that the Government of the United States should acquiesce in such methods or applications of punishment to its citizens.

Whatever may be said with regard to the legality, in the view of international obligation, of the act of Parliament upon which the practice

of the blacklist as now employed by His Majesty's Government is understood to be based, the Government of the United States is constrained to regard that practice as inconsistent with that true justice, sincere amity, and impartial fairness which should characterize the dealings of friendly Governments with one another. The spirit of reciprocal trade between the United States and Great Britain, the privilege long accorded to the nationals of each to come and go with their ships and cargoes, to use each the other's shipping, and be served each by the other's merchants is very seriously impaired by arbitrary and sweeping practices such as this. There is no purpose or inclination on the part of the Government of the United States to shield American citizens or business houses in any way from the legitimate consequences of unneutral acts or practices; it is quite willing that they should suffer the appropriate penalties which international law and the usage of nations have sanctioned; but His Britannic Majesty's Government can not expect the Government of the United States to consent to see its citizens put upon an *ex parte* blacklist without calling the attention of His Majesty's Government, in the gravest terms, to the many serious consequences to neutral right and neutral relations which such an act must necessarily involve. It hopes and believes that His Majesty's Government, in its natural absorption in a single pressing object of policy, has acted without a full realization of the many undesired and undesirable results that might ensue.

POLK.

PART III-A.

CASE OF THE AMERICAN STEAMSHIP JOSEPH W. FORDNEY
IN BRITISH PRIZE COURT.

The Secretary of State to Ambassador W. H. Page.

[Telegram.]

DEPARTMENT OF STATE,
Washington, April 14, 1915.

Department informed American steamer *Joseph W. Fordney*, which sailed from New York March twentieth, was seized four miles off Norwegian coast and in charge of prize crew brought into Kirkwall April eighth. Ship's manifest, copy of which has been furnished Department, shows cargo consists entirely of cattle fodder consigned to E. Klingener, Malmo, Sweden. It appears from other information presented to Department, affidavit regarding character and destination of cargo made by President of Atlantic Export Company of New York, shipper of entire cargo, was attached to bill of lading; that this affidavit contained certification of British Consul General and Swedish Consul and also a statement by latter to effect that exportation from Sweden of goods of which cargo consist is prohibited. It further appears vessel was loaded under supervision British consular officers, who sealed her hatches prior to sailing. Department from information in its possession is strongly inclined to believe that proper examination of the vessel has not disclosed evidence of any illegal shipment, and that seizure of the vessel is another illustration of the deplorable disregard of rights of American shippers by British naval authorities. If vessel is still held on receipt of this telegram, communicate with foreign office in sense of the foregoing and request immediate release of vessel if examination has not revealed evidence she carried contraband shipment.

BRYAN.

Ambassador W. H. Page to the Secretary of State.

[Telegram.]

AMERICAN EMBASSY,
London, April 19, 1915.

Foreign Office informs me British Government have decided to discharge the cargo on *Joseph W. Fordney* on ground that it is believed to be intended for Germany.

PAGE.

The Secretary of State to Ambassador W. H. Page.

[Telegram.]

DEPARTMENT OF STATE,
Washington, April 27, 1915.

Department, presuming that you, of course, delivered to Foreign Office a communication in the language of Department's 1421, April 14, is surprised that British Government should furnish no more satisfactory reply than that contained in your telegram under acknowledgment. This Government must insist that the legal rights of American shippers be respected. The information presented to the Department regarding the character and destination of the cargo of the steamer *Joseph W. Fordney* prompted the Department's belief that examination of her would not disclose evidence of illegal shipments warranting her seizure. This Government therefore felt justified in requesting the release of the vessel in case such evidence had not been disclosed. From the statement received from the British Government regarding the seizure of the vessel this Government is confirmed in its conclusion that such evidence has not been disclosed and that, therefore, the seizure of the vessel is unwarranted.

Bring matter again to the attention British Government with a view to obtaining satisfactory statement from them regarding the apparently unwarranted and illegal seizure of this vessel.

BRYAN.

Ambassador W. H. Page to the Secretary of State.

[Telegram.]

AMERICAN EMBASSY,
London, April 27, 1915.

Foreign Office informs me that British Government never had any intention of seizing the *Joseph W. Fordney*, but that, as the result of enquiries, they have decided to detain her cargo under Order in Council of March eleven on ground that the ostensible consignee does not exist at the port to which the bills of lading were made out.

PAGE.

Ambassador W. H. Page to the Secretary of State.

[Telegram—Paraphrase.]

AMERICAN EMBASSY,
London, May 4, 1915.

Mr. Page says he has requested the Legation at Stockholm to make investigation of the matter of the consignee of cargo of *Joseph W. Fordney* at Malmo. He states that it is the understanding that the firm of E. Klingener does not appear as existing at Malmo, but does exist at Gothenburg. He states that he will immediately present facts to the British Government and request the release of the vessel and cargo in case E. Klingener has branch house at Malmo.

Ambassador W. H. Page to the Secretary of State.

[Telegram.]

AMERICAN EMBASSY,
London, May 18, 1915.

My 1998, April twenty-seventh, and 2029, May fourth, re *Joseph W. Fordney*.

Replying to my representations Foreign Office informs me: "Apart from the uncertainty of the address of the consignee of the cargo of this

vessel, Mr. E. Klingener, His Majesty's Government have evidence that the cargo was not destined for bona fide Swedish consumption, but was intended for Germany and that the proper course of the consignees is to make application to the Prize Court."

PAGE.

The Secretary of State to Ambassador W. H. Page.

[Telegram.]

DEPARTMENT OF STATE,
Washington, May 21, 1915.

With reference to statement in your telegram that Foreign Office has informed you suspicious conduct of steamer *Joseph W. Fordney* in endeavoring to elude British patrol boat has tended to confirm evidence cargo was intended for Germany,¹ you may inform British Government persons interested in vessel having previously been informed regarding this allegation have transmitted to Department affidavit of Captain of vessel to the effect that he made no effort to evade British patrol ship and that no other officer at any time said anything to him indicating that he had not obeyed orders promptly or had not been absolutely frank in his statements.

BRYAN.

Consul General Skinner to the Secretary of State.

[Telegram.]

AMERICAN CONSULATE GENERAL,
London, June 12, 1915.

Writ issued yesterday against owner goods on *Joseph W. Fordney*.
SKINNER.

Ambassador W. H. Page to the Secretary of State.

No. 1873.]

AMERICAN EMBASSY,
London, July 26, 1915.

SIR: Adverting to the cablegraphic instructions from the Depart-

¹ See first two paragraphs of memorandum enclosed in despatch of May 20, 1915, from Ambassador Page, confirming his telegram of May 19, 1915, printed *supra*, p. 58.

ment No. 1596 of June 21, in regard to the American S. S. *Joseph W. Fordney*, instructing me to inform British Government to the effect that an affidavit of the Captain of the vessel had been received, stating that he had made no effort to elude the British patrol boat, I now have the honor to enclose herewith, for the information of the Department, a copy of a note which I have received from Sir Edward Grey in reply to my representations in the premises.

I have, etc.,

WALTER HINES PAGE.

[Inclosure.]

The British Secretary of State for Foreign Affairs to Ambassador W. H. Page.

No. 95233/15.]

FOREIGN OFFICE,
July 24th, 1915.

YOUR EXCELLENCY: With reference to your note of May 22nd relative to the American S. S. *Joseph W. Fordney* I have the honour to transmit herewith for Your Excellency's information a summary of a report which has been submitted to the Admiralty by the Commanding Officer of H. M. S. *Teutonic* respecting the circumstances attending the interception of this vessel on the 6th of April last.

I think Your Excellency will admit that this report constitutes a sufficient basis for the statement made in the first paragraph of my memorandum of May 14th, which the Master of the vessel is now endeavoring to controvert.

I have, etc.,

(For the Secretary of State)
EYRE A. CROWE.

[Subinclosure.]

Summary of Report of Commanding Officer of H. M. S. Teutonic.

At 3.50 a. m. on April 6th 1915, H. M. S. *Teutonic* sighted the American Steamer *Joseph W. Fordney* bearing S. E. (Magnetic) and steaming on a Southerly Course. H. M. S. *Teutonic* at that time was steering S. 77° E., speed 13 knots, and course was altered and telegraphs put to full speed to intercept the steamer, the White Ensign being hoisted at the

peak and signal to stop engines also hoisted. The Steamer was then seen to alter course and appeared to be steaming full speed. At 4.0 a. m. course was altered to S. 27° E. At 4.20 a. m. H. M. S. *Teutonic* having overhauled the *Joseph W. Fordney*, an alphabetical signal "We have no Code Book" was made by the latter. An alphabetical signal "Stop" was then made by H. M. S. *Teutonic*, and the Boarding Officer was alongside the S. S. *Joseph W. Fordney* at 5.15 a. m.

The Master of S. S. *Joseph W. Fordney* stated in conversation with the Officer in Charge of the Armed Guard, that he had been promised a bonus of about one thousand dollars if he got through without being sent to Kirkwall from the time charterers as a recompense for the money saved to them if the delay of the vessel being sent to Kirkwall for examination was obviated. He also stated that he altered course towards the land for territorial waters to avoid being intercepted.

Ambassador W. H. Page to the Secretary of State.

No. 2299.]

AMERICAN EMBASSY,
London, October 8, 1915.

SIR: I have the honor to inclose herewith for the information of the Department, a copy of a communication¹ addressed to the embassy by Mr. Arthur Garfield Hays, the representative of Messrs. Phelps Brothers, of New York, on September 7th in reference to the proceedings involved in the case of the S. S. *Joseph W. Fordney*, together with a copy of a note, dated October 6th, which has been received from the Foreign Office in regard thereto.

I have, etc.,

WALTER HINES PAGE.

[Inclosure.]

The British Secretary of State for Foreign Affairs to Ambassador W. H. Page.

No. 139116/15.]

FOREIGN OFFICE,
London, October 6, 1915.

YOUR EXCELLENCY: I did not fail to refer to His Majesty's Procurator General the note and enclosure which you were good enough to address

¹ Not printed.

to me on the 17th ultimo in regard to the proceeding involved in the case of the S. S. *Joseph W. Fordney*, and I now have the honor to inform Your Excellency that the Procurator General, having carefully investigated the circumstances in which the cargo of this vessel was shipped and having given full weight to the evidence available, came to the conclusion that the proper course was to apply for an order for the condemnation of the cargo.

With regard to the misunderstanding which appears to have arisen between Mr. Hays and the Procurator General in connection with this case, I have the honor to say that it was originally proposed to deal with the cargo under the Order in Council of March 11th, because the evidence only showed that the goods were intended for Germany, but as His Majesty's Government now have reason to believe that they were for the enemy Government or its armed forces, proceedings for condemnation are being taken on that ground.

Your Excellency will remember that as long ago as December last, when it was originally arranged that Your Excellency should be informed of cases of the detention of ships carrying cargoes shipped from the United States with an indication of the grounds of detention, it was expressly emphasized at the time that this undertaking would not be understood as debarring His Majesty's Government from raising additional grounds for proceeding against a cargo or ship in the Prize Court if they subsequently came to light, and Your Excellency was good enough to accept this view.

I have, etc.

E. GREY.

The Secretary of State to Ambassador W. H. Page.

[Telegram—Paraphrase.]

DEPARTMENT OF STATE,
Washington, November 3, 1915.

Mr. Page is informed that the Department's original supposition that the seizure of the cargo of the *Joseph W. Fordney* by the British Authorities was an illegal act is confirmed by the note of October sixth from the British Foreign Office to Mr. Page since the goods were seized without probable cause and on suspicion. Only in case these goods were consigned to the German Government or to the armed forces of Germany

were they subject to seizure. It is observed by the Department that the British Foreign Office states that as His Majesty's Government now have reason to believe that the goods were for the enemy Government or its armed forces, condemnation proceedings on that ground are being taken. It appears that approximately one-half a year after the goods were seized it is believed by the British Authorities that they are in possession of such evidence as alone would have justified the seizure.

The pertinency to the matter under discussion of the statement made by the British Foreign Office pointing out that when arrangements were made that the American Ambassador should be informed in regard to the detention of ships and indicating the ground upon which such ships were detained, emphasis was made that it was not to be understood that this undertaking debarred the Government of Great Britain from raising additional grounds for Prize Court proceedings against a ship or cargo. If due examination of the vessel at the time of its seizure did not disclose adequate evidence warranting the seizure of the goods, of course the cargo could not be lawfully seized and therefore subsequent proceedings in the Prize Court could not be lawful.

Mr. Page is directed to communicate with the British Foreign Office in the sense of the foregoing and to make renewed request for the release of the cargo of the vessel in view of the fact that it would appear from the statement of the British Government that the cargo was illegally seized.

Ambassador W. H. Page to the Secretary of State.

[Telegram.]

AMERICAN EMBASSY,
London, November 27, 1915.

Foreign Office reply that British Government regret that they are unable to depart from their intention to continue proceedings for condemnation of cargo of *Joseph W. Fordney* in the Prize Court. Sir Edward Grey adds that he will advise me on a later date regarding the general principles raised in connection with this cargo, as he is of opinion that they can be more adequately dealt with in conjunction with matters

brought to his notice in my note of November sixth, embodying your instruction October twenty-first.¹

PAGE.

The Secretary of State to Ambassador W. H. Page.

[Telegram—Paraphrase.]

DEPARTMENT OF STATE,
Washington, April 13, 1916.

Mr. Lansing informs Mr. Page that according to information received by the Department of State from the representatives of the shippers of the cargo on board the S. S. *Joseph W. Fordney*, viz, the Atlantic Export Company, which information was transmitted to these representatives by English lawyers who stated that the new Order in Council of the thirtieth of March last, bearing upon conditional contraband, is construed by the authorities of Great Britain to be retroactive in its nature. It will therefore be applied to the S. S. *Fordney's* cargo and in other United States cases soon to be tried. It is stated by these representatives that such proceedings would be equivalent to a denial of justice in the case of the cargo of the *Fordney*. As to the unwarranted nature of these proceedings, the State Department is in full accord with the shipper's views. The views of the Department have been known to the Government of Great Britain through Mr. Page, that there could be no legal seizure of the cargo nor legal proceedings of a prize court following it if a proper examination which warranted the taking of the goods under discussion was not brought to light by a proper examination of the *Fordney* at the time it was seized. Furthermore, evidence of the illegal destination of a cargo which was discovered, according to statements of the British Government regarding the S. S. *Fordney*, about half year after the seizure occurred, can not justify the seizure of a vessel. The British Government has made no reply justifying such a course.

Mr. Page is instructed to communicate the foregoing matter to the Foreign Office and say that the United States Government considers itself entitled to receive from the Government of Great Britain a statement with regard to their views as to how such a seizure and prize court procedure relating to it are warranted by the evidence submitted.

¹ Printed *supra*, p. 73.

Ambassador W. H. Page to the Secretary of State.

[Telegram.]

AMERICAN EMBASSY,
London, May 9, 1916.

Your 3194, April thirteenth, re *Joseph W. Fordney*. Foreign Office informs me in reply to my representations that the general considerations which I submitted in accordance with Department's 3194 as to evidence on which a prize court may properly be asked to act were dealt with in the memorandum which was presented to United States Government by British Ambassador in Washington on April twenty-fourth¹ and that as to the particular case of the *Joseph W. Fordney*, as has already been intimated, the British Government must decline to enter into any discussion of points which are awaiting decision in a case pending in the prize court. It is further stated that it is of course open to the claimants to submit to the court any of the considerations advanced in my note based on Department's 3194 on which they may desire to rely.

PAGE.

¹ Printed *supra*, p. 120.

PART IV.

SUBMARINE WARFARE.

(Continuation of correspondence printed in Special Supplement, July, 1915, pp. 83-101, 129-141, 149-153, 155-157.)

1. CORRESPONDENCE WITH GERMANY REGARDING SUBMARINE INTERFERENCES WITH COMMERCIAL VESSELS.

Ambassador Gerard to the Secretary of State.

[Telegram—Paraphrase.]

AMERICAN EMBASSY,
Berlin, May 9, 1915.

Ambassador Gerard transmits to the Department the following statement, which he says was received at 5.30 to-day from the German Foreign Office, relative to attacks made by mistake on neutral vessels of commerce by German submarines:

First. Imperial German Government has naturally no intention of causing to be attacked by submarines or air craft such neutral ships of commerce in the zone of naval warfare, more definitely described in the notice of the German Admiralty staff of February 4 last, as have been guilty of no hostile act; on the contrary, the most definite instructions have repeatedly been issued to German war vessels to avoid attacks on such ships under all circumstances. Even when such ships have contraband of war on board, they are dealt with by submarines solely according to the rules of international law applying to prize warfare.

Two. Should a neutral ship, nevertheless, come to harm through German submarines or air craft on account of an unfortunate (* * *)¹ in the above-mentioned zone of naval warfare, the German Government will unreservedly recognize its responsibility therefor. In such a case it will express its regrets and afford damages without first instituting a prize court action.

Three. It is the custom of the German Government as soon as the sinking of a neutral ship in the above mentioned zone of naval warfare

¹ Apparent omission.

is ascribed to German war vessels to institute an immediate investigation into the cause. If grounds appear thereby to be given for assuming such a hypothesis, the German Navy places itself in communication with the interested neutral government, so that the latter may also institute an investigation. If the German Government is thereby convinced that the ship has been destroyed by German war vessels, it will not delay in carrying out the provisions of paragraph two above. In case the German Government, contrary to the viewpoint of the neutral government, is not convinced by the result of the investigation, the German Government has already on several occasions declared itself ready to allow the question to be decided by an international investigation commission according to chapter three of The Hague Convention of October 18, 1907, for the peaceful solution of international disputes.

GERARD.

Ambassador Gerard to the Secretary of State.

[Telegram—Paraphrase.]

AMERICAN EMBASSY,
Berlin, July 12, 1915.

Following memorandum just received from the Foreign Office:

Memorandum relative to the damaging of the American steamer *Nebraskan* by a German submarine:

The German Government received from newspaper reports the intelligence that the American steamer *Nebraskan* had been damaged by a mine or torpedo on the southwest coast of Ireland. It therefore started a thorough investigation of the case without delay, and from the result of the investigation it has become convinced that the damage to the *Nebraskan* was caused by an attack by a submarine.

On the evening of May 25 last the submarine met a steamer bound westward without a flag and with no neutral markings on her freeboard about 35 nautical miles west of Fastnet Rock; no appliance of any kind for the illumination of the flag or markings was to be seen. In the twilight, which had already set in, the name of the steamer was not visible from the submarine. Since the commander of the submarine was obliged to assume, from his wide experience in the area of maritime war, that only English steamers, and no neutral steamers, traversed this war area without flag and markings, he attacked the vessel with a torpedo in the conviction that he had an enemy vessel before him. Some time after the shot the commander saw that the vessel had in the meantime hoisted the American flag. As a consequence he of course refrained from any further attack. Since the vessel remained afloat he had no

occasion to concern himself further with the boats which had been launched.

It results from this, without a doubt, that attack on the steamer *Nebraskan* was not meant for the American flag; nor is it traceable to any fault on the part of the commander of the German submarine, but is to be considered an unfortunate accident. The German Government expresses its regret at the occurrence to the Government of the United States of America and declares its readiness to make compensation for the damage thereby sustained by American citizens.

As in the case of the steamer *Gulflight*, the German Government begs to suggest that the American Government submit to it a detailed statement of such damage or, if doubt might arise as to certain points, to designate an expert to fix the amount of compensation, acting in conjunction with a German expert.

GERARD.

Consul Dennison to the Secretary of State.

[Telegram.]

AMERICAN CONSULATE,
Dundee, July 26, 1915.

American steamer *Leelanaw*, of New York, from Archangel to Belfast, with flax, torpedoed and sunk by German submarine on twenty-fifth. Whole crew landed at Kirkwall this morning in their own boats. Have instructed consular agent to send them on to Dundee immediately.

DENNISON.

Consul General Skinner to the Secretary of State.

[Telegram.]

AMERICAN CONSULATE GENERAL,
London, July 26, 1915.

American ship *Leelanaw*, returning from Archangel to home port with flax for Belfast, Ireland, torpedoed and sunk by German submarine twenty-fifth. Entire crew landed Kirkwall this morning in own boats.

SKINNER.

Consul General Skinner to the Secretary of State.

[Telegram.]

AMERICAN CONSULATE GENERAL,
London, July 27, 1915.

Leelanaw crew proceeding to Dundee. Captain torpedoed ship states agent Kirkwall he had ample time leave his ship before being fired on. Crew went on board submarine and remained some time, ship's boats being taken in tow for about fifty miles.

SKINNER.

Ambassador W. H. Page to the Secretary of State.

[Telegram.]

AMERICAN EMBASSY,
London, July 27, 1915.

Sir Edward Grey to-day communicated to me the following message which he stated had been received by him from the British Admiralty: .

With reference to the American ship *Leelanaw* crew propose leaving Kirkwall for Aberdeen July 27. Vessel was flying American flag. Crew were told they might take their time to leave the ship and save their effects. Submarine towed their boats toward Orkney Islands; cast off the tow on another steamer being sighted.

PAGE.

Consul Dennison to the Secretary of State.

[Telegram.]

AMERICAN CONSULATE,
Dundee, July 28, 1915.

Leelanaw's crew here all safe. Sail Saturday *Saint Paul*. Master under oath states sighted German submarine July twenty-fifth, sixty miles northwest Orkneys. Endeavored to escape. Fired on at distance two miles, shot falling short; hove to and stopped. Submarine signalled for ship's papers, which were sent. After examining them submarine signalled abandon ship. Ample time given crew to leave

ship. Five shots then fired at *Leelanaw* without effect, followed by torpedo. Crew then taken on submarine with lifeboats in tow, after which two more shots were fired, last one setting fire to ship. Submarine headed towards Orkneys. *Leelanaw* was seen to sink one hour twenty minutes later. Eight-thirty another steamer being seen approaching, crew ordered to boats, in which they proceeded remainder distance to Kirkwall, arriving six thirty following morning. *Leelanaw* laden with flax and tow only. Before leaving submarine master demanded ship's papers. Request refused, his register, customs manifest, and bills of lading being retained. Master has no complaint of treatment on submarine.

DENNISON.

The Secretary of State to Ambassador Gerard.

[Telegram—Paraphrase.]

DEPARTMENT OF STATE,
Washington, July 31, 1915.

Ambassador Gerard is directed to obtain and forward to the Department of State a full report of facts relating to the sinking of the American ship *Leelanaw*, together with certified copies of the ship's papers.

Ambassador W. H. Page to the Secretary of State.

[Telegram—Paraphrase.]

AMERICAN EMBASSY,
London, August 19, 1915.

Mr. Page informs Mr. Lansing that he has just received word that the steamer *Arabic* of the White Star Line was torpedoed at nine o'clock this morning and sank in eleven minutes. He reports that fifteen lifeboats from the vessel are proceeding to Liverpool, and that he will send details of the incident as soon as possible.

The German Ambassador to the Secretary of State.

[Telegram.]

NEW YORK, August 24, 1915.

I am instructed by my government to communicate the following to you:

So far no official information about the sinking of the *Arabic* is available. The Imperial Government trusts that the Government of the United States will not take a definite stand after only hearing the reports coming from one side, which, according to the opinion of my government, cannot possibly correspond with the facts, but will give the Imperial Government a chance to be heard equally. Although my government does not doubt the good faith of the witnesses whose statements have been published by the newspapers in Europe my government thinks that it should be borne in mind that such statements have naturally been made in great excitement which might easily produce a wrong impression. In case Americans should actually have lost their life this would naturally be contrary to the intention of the German Government, who would deeply regret this fact and has instructed me to extend its sincerest sympathy to the Government of the United States.

May I ask you to be good enough to publish the above or to kindly let me know whether you agree to my publishing it?

J. BERNSTORFF.

*The German Ambassador to the Secretary of State.*GERMAN EMBASSY,
Washington, September 1, 1915.

MY DEAR MR. SECRETARY:

With reference to our conversation of this morning I beg to inform you that my instructions concerning our answer to your last *Lusitania* note contain the following passage:

Liners will not be sunk by our submarines without warning and without safety of the lives of noncombatants, provided that the liners do not try to escape or offer resistance.

Although I know that you do not wish to discuss the *Lusitania* question till the *Arabic* incident has been definitely and satisfactorily settled, I desire to inform you of the above because this policy of my Government was decided on before the *Arabic* incident occurred.

I have no objection to your making any use you may please of the above information.

I remain, etc.,

J. BERNSTORFF.

The German Ambassador to the Secretary of State.

[Translation.]

J. Nr. A 5476.]

GERMAN EMBASSY,

Cedarhurst, N. Y., September 4, 1915.

MR. SECRETARY OF STATE: On the 25th of last month an English merchant vessel fired on a German submarine in the Irish Sea without any challenge of any kind.

On the 18th of the same month a German submarine was fired on in Bristol Channel by an English passenger steamer that had been summoned to stop.

By direction of my Government I have the honor to bring those cases to Your Excellency's notice in order again to lay stress on the point that British merchant vessels which attack German submarines of course expose themselves to the danger of destruction; American citizens who travel on such vessels do so on their own responsibility and incur the greatest risk.

Accept, etc.,

J. BERNSTORFF.

Ambassador Gerard to the Secretary of State.

AMERICAN EMBASSY,

Berlin, September 7, 1915.

Foreign Office sends me the following report of the sinking of the *Arabic*, with the request that it be brought to the knowledge of the American Government:

On the 19th of August a German submarine stopped the English steamer *Dunsley* about 60 nautical miles south of Kinsale and was on

the point of sinking the prize by gun fire after the crew had left the vessel. At this moment the commander saw a large steamer making directly toward him. This steamer, which, as developed later, was identical with the *Arabic*, was recognized as an enemy vessel, as she did not fly any flag and bore no neutral markings. When she approached she altered her original course, but then again pointed directly toward the submarine. From this the commander became convinced that the steamer had the intention of attacking and ramming him. In order to anticipate this attack he gave orders to have the submarine submerge and fired a torpedo at the steamer. After firing he convinced himself that the people on board were being rescued in 15 boats.

According to his instructions the commander was not allowed to attack the *Arabic* without warning and without saving lives unless the ship attempted to escape or offered resistance. He was forced to conclude from the attendant circumstances that the *Arabic* planned a violent attack on the submarine. This conclusion was all the more obvious, as he had been fired upon at a great distance in the Irish Sea on August 14—that is, a few days before—by a large passenger steamer apparently belonging to the British Royal Mail Steam Packet Company, which he had neither attacked or stopped.

The German Government most deeply regrets that lives were lost through the action of the commander. It particularly expresses this regret to the Government of the United States on account of the death of American citizens. The German Government is unable, however, to acknowledge any obligation to grant indemnity in the matter, even if the commander should have been mistaken as to the aggressive intentions of the *Arabic*. If it should prove to be the case that it is impossible for the German and the American Government to reach a harmonious opinion on this point, the German Government would be prepared to submit the difference of opinion as being a question of international law to The Hague tribunals, pursuant to Article 38 of The Hague Convention for the Pacific Settlement of International Disputes. In so doing it assumes that as a matter of course the arbitral decision shall not be admitted to have the importance of a general decision on the permissibility or the converse under international law of German submarine warfare. Berlin, September 7, 1915.

GERARD.

Ambassador Gerard to the Secretary of State.

No. 1507.]

AMERICAN EMBASSY,
Berlin, September 11, 1915.

SIR: With reference to my telegram of the 10th instant, No. 2867,¹ I

¹ Not printed.

have the honor to transmit herewith a copy and translation of the note received from the Imperial Foreign Office dated September 9, 1915, inclosing the report of the attack on the steamer *Orduna* by a German submarine.

I have, etc.,

JAMES W. GERARD.

[Inclosure—Translation.]

The German Minister for Foreign Affairs to Ambassador Gerard.

FOREIGN OFFICE,
Berlin, September 9, 1915.

The undersigned has the honor to transmit herewith to His Excellency, Mr. James W. Gerard, Ambassador of the United States of America, in reply to the notes of July 27 and September 1, 1915, F. O. 4444 and 4959, a memorandum relative to the attack by a German submarine on the English passenger steamer *Orduna*.

The undersigned avails himself, etc.,

VON JAGOW.

[Subinclosure—Translation.]

MEMORANDUM.

At about quarter past seven on the morning of July 9 last a German submarine sighted a steamer from 3 to 5 miles away and a sailing vessel about a mile away. The steamer was proceeding without any flag or neutral markings and was taken for a small enemy steamer by the commander of the submarine on account of the difficulty of observation caused by the unfavorable weather. The commander decided first to attack the steamer submerged and fired a torpedo at the vessel which missed its mark.

Hoping to catch the steamer above the water, the submarine rose and chased the steamer on the surface. The steamer did not stop when a shot of warning was fired, and therefore several shells were fired at her which did not strike her, as the submarine was pitching about and the distance was great. The submarine then proceeded to the sailing vessel, which was shown to be the American bark *Normandie*, bound from New York to Liverpool with a cargo of lumber. Although the cargo contained

contraband, the sailing vessel was permitted to continue her voyage unhindered, as it was impossible to guarantee that the crew would be surely rescued in the small boats if the ship were sunk.

The first attack on the *Orduna* by a torpedo was not in accordance with the existing instructions, which provide that large passenger steamers are only to be torpedoed after previous warning and after the rescuing of passengers and crew. The failure to observe the instructions was based on an error, which is at any rate comprehensible, and the repetition of which appears to be out of the question, in view of the more explicit instructions issued in the meantime. Moreover, the commanders of the submarines have been reminded that it is their duty to exercise greater care and to observe carefully the orders issued.

Berlin, September 9, 1915.

The Secretary of State to Ambassador Gerard.

[Telegram.]

DEPARTMENT OF STATE,

Washington, September 14, 1915.

You are instructed to deliver to the Foreign Office the following summary of the evidence¹ on file in the Department in regard to the sinking of the *Arabic*.

(1) It is generally agreed that the course of the *Arabic* drew her nearer to the *Dunsley* from the time the *Dunsley* and *Arabic* sighted each other until about the time the *Arabic* was torpedoed. (Affidavits of Master, First, Second, and Third Officers, Mess steward and seamen of *Dunsley*; affidavits of Captain and Second Officer of the *Arabic*; unsworn statements of three American passengers.) The Officers of the *Dunsley* agree that the *Arabic* altered her course somewhat toward the *Dunsley*, but that her course was variable or zig-zag. (Affidavits of Master, 1st, 2d, and 3d officers and Mess Steward and one Seaman of the *Dunsley*; affidavits of Captain and 2nd officer of *Arabic*; affidavit of one American Passenger.) The Third officer stated that the *Arabic* began the zig-zag course four miles away from the *Dunsley*. Though the *Arabic* at times

¹ The text of the evidence is printed in an appendix, *infra*, p. 203.

necessarily pointed toward the *Dunsley*, at the time the torpedo struck she was moving away from the *Dunsley*. (Affidavit of Captain and Second Officer of *Arabic*, third officer of *Dunsley*, and one passenger of unknown nationality and unsworn statement of one American passenger.)

(2) The passengers on the *Arabic* variously estimated that the *Arabic* approached the *Dunsley* to within one to five miles. (Affidavits of 3 American passengers; unsworn statements of three American passengers and one passenger of unknown nationality.) While the *Dunsley* was sighted several miles away, the officers of that vessel estimated that the *Arabic* approached to one and a half to three miles from the *Dunsley*. (Affidavits of Master, 1st and 2nd officers.) And one *Dunsley* seaman swore the first distance was only one half mile. The affidavits of the Captain and the 2nd Officer of the *Arabic* agree that the *Arabic* did not approach nearer than two miles to the *Dunsley*.

(3) It appears that the submarine after shelling the *Dunsley* and after sighting the *Arabic* hid behind the *Dunsley* and submerged before the explosion of the torpedo which sank the *Arabic*. (Affidavits of Master, 1st and 2nd officers, mess steward, and one seaman of *Dunsley*.)

(4) Witnesses are in agreement that the submarine was not seen from the *Arabic* (affidavits of the Captain and 2nd Officer of the *Arabic*, affidavits of 3 American passengers and unsworn statement of passenger of unknown nationality), and that the *Arabic* could not have seen the submarine from its position behind the *Dunsley* prior to submerging. (Affidavit of 2nd Officer of the *Dunsley*.)

(5) All agree that the *Arabic* received no warning. (Affidavit of 6 American passengers and two passengers of unknown nationality, and the unsworn statements of four American passengers and two passengers of unknown nationality, and the affidavits of Captain and 2nd Officer of the *Arabic*.)

(6) The torpedo was first seen by the passengers at an estimated distance of 150 to 300 yards away. (Affidavit of passenger of unknown nationality; unsworn statements of two American passengers and one passenger of unknown nationality.) The Captain of the *Arabic*, however, swears that the air bubbles and the torpedo were only 300 feet away when he saw them. (It appears that Consul Washington at Liverpool, in conversation with Captain Finch and the Second Officer of the *Arabic*, learned that they saw bubbles of air at the time they first noticed the torpedo, which were taken to indicate the air escaping at the time the

torpedo was expelled from the tube, and that therefore the submarine was supposed to have been only 300 feet from the *Arabic* and about 2 miles from the *Dunsley*, when the torpedo was fired. Consul Washington's three telegraphic reports of August 24th.)

(7) All agree that the torpedo struck the *Arabic* near the stern on the starboard side. (Affidavit of Captain, 2nd officer of *Dunsley*, and two American passengers and a passenger of unknown nationality, and unsworn statement of one American passenger.)

From a diagram made by the Second Officer of the *Arabic*, who observed the approach of the torpedo from the navigating bridge, the course of the torpedo was almost at right angles to the course of the *Arabic*.

The German Ambassador to the Secretary of State.

GERMAN EMBASSY,
Washington, October 5, 1915.

MY DEAR MR. SECRETARY:

Prompted by the desire to reach a satisfactory agreement with regard to the *Arabic* incident my Government has given me the following instructions:

The orders issued by His Majesty the Emperor to the commanders of the German submarines—of which I notified you on a previous occasion—have been made so stringent that the recurrence of incidents similar to the *Arabic* case is considered out of the question.

According to the report of Commander Schneider of the submarine that sank the *Arabic*, and his affidavit as well as those of his men, Commander Schneider was convinced that the *Arabic* intended to ram the submarine. On the other hand, the Imperial Government does not doubt the good faith of the affidavits of the British officers of the *Arabic*, according to which the *Arabic* did not intend to ram the submarine. The attack of the submarine, therefore, was undertaken against the instructions issued to the commander. The Imperial Government regrets and disavows this act and has notified Commander Schneider accordingly.

Under these circumstances my government is prepared to pay an indemnity for the American lives which to its deep regret have been

lost on the *Arabic*. I am authorized to negotiate with you about the amount of this indemnity.

I remain, etc.,

J. BERNSTORFF.

The Secretary of State to the German Ambassador.

DEPARTMENT OF STATE,
Washington, October 6, 1915.

MY DEAR MR. AMBASSADOR: I beg to acknowledge the receipt of your note of yesterday informing me that orders to the commanders of the German submarines have been made so stringent that the recurrence of incidents similar to the *Arabic* case is considered out of the question; that the attack on the *Arabic* was undertaken against the instructions issued to the Commander of the submarine; and that the Imperial Government regrets and disavows this act and has notified Commander Schneider accordingly. Furthermore, you advise me that your Government is prepared to pay an indemnity for the loss of American lives and that you are authorized to negotiate with me in regard to this indemnity.

In reply I hasten to inform you that I have noted with satisfaction the above assurances of your Government, and I am now prepared to negotiate with you concerning the amount of the indemnity. Steps will be taken at once to come in touch with the interested persons, after which I shall be pleased to communicate with you further in this matter.

I am, etc.,

ROBERT LANSING.

Ambassador Gerard to the Secretary of State.

[Telegram—Paraphrase.]

AMERICAN EMBASSY,
Berlin, October 19, 1915.

Ambassador Gerard reports receipt of a note from the German Foreign Office dated October 16th, relating circumstances of destruction of the *Leelanaw* and citing in justification of the German submarine's commander the Declaration of London and German prize ordinance. In

addition, the note acknowledges applicability of treaty as in the case of the American vessel *Frye*, and states that the *Leelanaw's* papers have been sent to the Hamburg Prize Court, which will pass upon the case. Ambassador Gerard also reports that interested American parties are stated to be represented before the Prize Court.

Ambassador Gerard to the Secretary of State.

No. 1672.]

AMERICAN EMBASSY,
Berlin, October 19, 1915.

With reference to the Department's telegram No. 2022, dated July 31st, 1915, 3 p. m., and to my telegram of even date, No. 3023, I have the honor to transmit herewith a translation of a note received to-day from the Imperial Foreign Office, dated October 16, 1915, relating the facts of the sinking of the American steamer *Leelanaw* by a German submarine on July 25th, 1915.

I have, etc.,

J. W. GERARD.

[Inclosure—Translation.]

No. IIIa. 17397.
153453.

FOREIGN OFFICE,
Berlin, October 16, 1915.

NOTE VERBALE.

The Foreign Office has the honor to make the following reply to the note verbale of the Embassy of the United States of America, dated August 2, 1915, F. O. No. 4536, relative to the sinking of the American steamer *Leelanaw*.

The steamer mentioned was stopped by a German submarine at 2.10 o'clock on the afternoon of July 25, 1915, in 59 degrees 55 minutes latitude north, and 4 degrees 22 minutes longitude west. According to the ship's papers, she was on a voyage from Archangel to Belfast; the cargo consisted of flax. The commander of the submarine considered the cargo contraband and decided accordingly to sink the vessel and cargo.

He saw to it that the crew of the vessel was safely taken ashore and took the ship's papers of the steamer *Leelanaw* on board the submarine.

Under Article 21, number 22 of the German Prize Ordinance as amended by the Ordinance of April 18, 1915 (*Reichs-Gesetzblatt*, p. 227), flax is to be considered absolute contraband. The Ordinance of April 18, 1915, was communicated to the Embassy of the United States of America by note verbale of April 22, 1915 (IIIa. 8434), with the request that the contents be brought to the knowledge of the American Government. It was possible therefore for the shippers and captain of the steamer *Leelanaw* to have knowledge of the German contraband regulations. The goods were destined for an English port; thus the contraband was liable to seizure without further formality (*vide* Article 30 of the German Prize Ordinance; Article 31 of the Declaration of London). According to value and bulk, the contraband formed more than half the whole cargo; consequently the vessel herself was liable to confiscation (*vide* Article 41, paragraph 2 of the German Prize Ordinance; Article 40 of the Declaration of London). Since the German commander was unable to take the steamer into a German port without exposing the submarine to danger or impairing the success of the operations in which it was engaged, he was justified in destroying the vessel (Article 113 of the German Prize Ordinance; Article 49 of the Declaration of London). He fulfilled his obligation of placing all persons on board and the ship's papers in safety (Article 116 of the German Prize Ordinance; Article 50 of the Declaration of London).

The Commander therefore acted in conformity with the principles of international law. The legality of the measures taken by him is examinable by German prize jurisdiction according to Article 1, number 2, of the German Prize Ordinance (article 51 of the Declaration of London). The ship's papers have already been sent to the Prize Court at Hamburg. This Court will have to decide the questions whether the destruction of the vessel and cargo was legal, whether the property sunk was liable to confiscation, and to whom and in what amount indemnity is to be awarded, provided any claim therefor is before it. It is true that in the present case, as in the case of the *William P. Frye*, the special provisions of Article 13 of the Prussian-American Treaty of July 11, 1799, are to be considered, pursuant to which property belonging to citizens of the United States of America may only be confiscated when its value is restored.

It appears from information received from the Prize Court that the

American shipping interests have already entrusted a Hamburg attorney with the representation of their rights before the Prize Court. The Foreign Office begs to reserve a note concerning the outcome of the prize proceedings.

Ambassador Gerard to the Secretary of State.

[Telegram.]

AMERICAN EMBASSY,
Berlin, October 30, 1915.

The following note has just been received 10 a. m. from Foreign Office: Ambassador Count Bernstorff has now reported about the negotiations conducted in Washington, D. C., with reference to the *Arabic* incident, and also communicated to me the text of the letter he addressed to the Secretary of State, Mr. Lansing.

From the ambassador's report I see with satisfaction that a full understanding has been reached between our two Governments.

As Count Bernstorff, acting under instructions of the Imperial Government, has already pointed out, the commander of the submarine that sank the *Arabic* was convinced that the *Arabic* intended to ram his boat. I have since transmitted by mail to Count Bernstorff the evidence on file here—that is, a legalized copy of the report made by the commander of the submarine on September 2, as well as legalized copies of the hearing of the witnesses, conducted on September 21, in the matter of the sinking of the English steamer *Arabic* by a German submarine, together with the diagram and English translations—and have requested him to bring this evidence to the knowledge of the American Government.

I beg to transmit herewith also to Your Excellency copies of the above-mentioned documents, for I trust that Your Excellency's Government will gain from them the conviction that the circumstances as explained in the statements of the witnesses give the commander of the submarine justified reasons for his above-mentioned supposition.

The German Government, on the other hand, as Count Bernstorff has already informed Mr. Lansing, does not want to refuse to credit the affidavit of the English officers of the *Arabic*, according to which no submarine was seen from the *Arabic*. The German Government therefore admits that whereas the commander personally was convinced that he acted in self-defense, there was in fact no attempt made to ram the submarine. I may therefore repeat Count Bernstorff's statement that the attack of the submarine, to our regret, was not in accordance with their instructions issued, and that the commander has been notified accordingly.

As it has been the intention of the Imperial Government to settle the incident in a friendly manner, Count Bernstorff has also been instructed, as you know, to declare to the American Government our readiness to pay, out of friendly consideration and leaving aside the question of the liability resulting from international law, an indemnity for the loss of the American lives which the German Government deeply (* * *).¹

In giving again expression to my satisfaction that Count Bernstorff's negotiations with the Secretary of State, Mr. Lansing, have led to a settlement of the incident, I avail myself of the occasion to renew to Your Excellency the assurances of my highest consideration.

(Signed) VON JAGOW.
GERARD.

The Secretary of State to Ambassador Gerard.

[Telegram—Paraphrase.]

DEPARTMENT OF STATE,
Washington, November 30, 1915.

Ambassador Gerard is directed to inform the German Foreign Office that the owners of the *Leelanaw* are not represented before the Prize Court and that for the same reason given by the United States Government for refusing to submit the question of the amount of indemnity to be paid in the *William P. Frye* case to the Prize Court, the United States Government desires that the question of the amount of indemnity to be paid in the *Leelanaw* case shall be adjusted by diplomatic negotiations.

Communication from German Government delivered by German Ambassador, under instructions.

GERMAN EMBASSY,
Washington (Received January 7, 1916).

1. German submarines in the Mediterranean had, from the beginning, orders to conduct cruiser warfare against enemy merchant vessels only in accordance with general principles of international law, and in particular measures of reprisal, as applied in the war zone around the British Isles, were to be excluded.

¹Apparent omission.

2. German submarines are therefore permitted to destroy enemy merchant vessels in the Mediterranean—i. e., passenger as well as freight ships as far as they do not try to escape or offer resistance—only after passengers and crews have been accorded safety.

3. All cases of destruction of enemy merchant ships in the Mediterranean in which German submarines are concerned are made the subject of official investigation and, besides, submitted to regular prize court proceedings. In so far as American interests are concerned, the German Government will communicate the result to the American Government. Thus also in the *Persia* case if the circumstances should call for it.

4. If commanders of German submarines should not have obeyed the orders given to them they will be punished; furthermore, the German Government will make reparation for damage caused by death of or injuries to American citizens.

*Memorandum from the German Embassy.*¹

J. Nr. A. 1601.]

GERMAN EMBASSY,
Washington.

MEMORANDUM.

The Imperial German Government, on account of the friendly relations which have always existed between the two great nations and earnestly desiring to continue them, wishes to explain the U boat question once more to the American Government.

At the outbreak of the war the German Government, acting upon the suggestion of the United States, immediately expressed its readiness to ratify the Declaration of London. At that time a German prize code had already been issued, which was entirely—and without modification—based upon the rules of the Declaration of London. Germany thereby proved her willingness to recognize fully the existing rules of international law which ensure the freedom of the sea for the legitimate trade of neutral nations, not only among themselves but also with belligerent countries.

Great Britain, on the other hand, declined to ratify the Declaration of London and, after the outbreak of the war, began to restrict the legit-

¹ Received by the Secretary of State March 8, 1916.

imate trade of the neutrals in order to hit Germany. The contraband provisions were systematically extended on August 5, 20, September 21, and October 29, 1914. On November 3, 1914, the order of the British Admiralty followed, declaring the whole North Sea a war zone, in which commercial shipping would be exposed to most serious dangers from mines and men-of-war. Protests from neutrals were of no avail, and from that time on the freedom of neutral commerce with Germany was practically destroyed. Under these circumstances Germany was compelled to resort, in February, 1915, to reprisals in order to fight her opponents' measures, which were absolutely contrary to international law. She chose for this purpose a new weapon, the use of which had not yet been regulated by international law and, in doing so, could and did not violate any existing rules but only took into account the peculiarity of this new weapon, the submarine boat.

The use of the submarine naturally necessitated a restriction of the free movements of neutrals and constituted a danger for them which Germany intended to ward off by a special warning analogous to the warning England had given regarding the North Sea.

As both belligerents—Germany in her note of February 17 and Great Britain in those of February 18 and 20, 1915—claimed that their proceeding was only enacted in retaliation for the violation of international law by their opponents, the American Government approached both parties for the purpose of trying to reestablish international law as it had been in force before the war. Germany was asked to adapt the use of her new weapon to the rules which had been existing for the former naval weapons and England not to interfere with the food supplies intended for the noncombatant German population and to admit their distribution under American supervision. Germany, on March 1, 1915, declared her willingness to comply with the proposal of the American Government, whilst England, on the other hand, declined to do so. By the Order in Council of March 11, 1915, Great Britain abolished even what had remained of the freedom of neutral trade with Germany and her neutral neighbors. England's object was to starve Germany into submission by these illegal means.

Germany, after neutral citizens had lost their lives against her wish and intention, nevertheless, in the further course of the war, complied with the wishes of the American Government regarding the use of submarines. The rights of neutrals regarding legal trading were, in fact, nowhere limited by Germany.

Then England made it impossible for submarines to conform with the old rules of international law by arming nearly all merchantmen and by ordering the use of the guns on merchant vessels for attack. Photographic reproductions of those instructions have been transmitted to neutral Governments with the memorandum of the German Government of February 8, 1916. These orders are obviously in contradiction with the note delivered by the British Ambassador in Washington to the American Government on August 25, 1914. On account of the proposals made by the United States on January 23, 1916, regarding disarmament, the Imperial Government hoped that these facts would enable the neutral Governments to obtain the disarmament of the merchant ships of her opponents. The latter, however, continued with great energy to arm their merchantmen with guns.

The principle of the United States Government not to keep their citizens off belligerent merchant ships has been used by Great Britain and her allies to arm merchant ships for offensive purposes. Under these circumstances merchantmen can easily destroy submarines, and, if their attack fails, still consider themselves in safety by the presence of American citizens on board.

The order to use arms on British merchantmen was supplemented by instructions to the masters of such ships to hoist false flags and to ram U boats. Reports on payments of premiums and bestowals of decorations to successful masters of merchantmen show the effects of these orders. England's allies have adopted this position.

Now Germany is facing the following facts:

(a) A blockade contrary to international law (compare American note to England of November 5, 1915)¹ has for one year been keeping neutral trade from German ports and is making German exports impossible.

(b) For 18 months, through the extending of contraband provisions in violation of international law (compare American note to England of November 5, 1915), the overseas trade of neighboring neutral countries, so far as Germany is concerned, has been hampered.

(c) The interception of mails in violation of international law (compare American memorandum to England of January 10, 1916)² is meant to stop any intercourse of Germany with foreign countries.

¹ This note embodied the instructions from the Secretary of State sent October 21, 1915, printed *supra*, p. 73.

² Embodied in telegram from the Secretary of State sent January 4, 1916, printed *infra*, p. 404.

(d) England, by systematically and increasingly oppressing neutral countries, following the principle of "might before right," has prevented neutral trade on land with Germany so as to complete the blockade of the central powers intended to starve their civil population.

(e) Germans met by our enemies on the high seas are deprived of their liberty no matter whether they are combatants or noncombatants.

(f) Our enemies have armed their merchant vessels for offensive purposes, theoretically making it impossible to use our U boats according to the principles set forth in London Declaration (compare American memorandum of February 8, 1916).³

The English white book of January 5, 1916, on the restriction of German trade, boasts that by British measures Germany's export trade has been stopped almost entirely, whilst her imports are subject to England's will.

The Imperial Government feels confident that the people of the United States, remembering the friendly relations that for the last hundred years have existed between the two nations, will, in spite of the difficulties put into the way by our enemies, appreciate the German viewpoint as laid down above.

J. BERNSTORFF.

The Secretary of State to Ambassador Gerard.

[Telegram—Paraphrase.]

DEPARTMENT OF STATE,
Washington, March 27, 1916.

Mr. Gerard is informed that considerable evidence has been received by the Department to the effect that the steamship *Sussex* with several American citizens among the passengers was sunk by a submarine torpedo on the 24th instant, and he is directed to inquire immediately of the German Foreign Office whether a submarine belonging to Germany or her allies sunk the *Sussex*. The Department expects a prompt reply.

³ This seems to refer to the "Memorandum of the Imperial German Government on the Treatment of Armed Merchantmen," dated February 8, 1916, printed *infra*, p. 315.

The Secretary of State to Ambassador Gerard.

[Telegram—Paraphrase.]

DEPARTMENT OF STATE,
Washington, March 28, 1916.

Mr. Gerard is informed of Department's advices that the *Englishman*, a steamer of the Dominion Line, was torpedoed March 21 after departure from Avonmouth for Portland, Me. The *Englishman* was a horse ship carrying several Americans on board and the survivors' list does not include some of them.

Mr. Gerard is asked to inquire immediately of the German authorities whether the submarine which sank the vessel belonged to Germany or her allies and to add that the United States Government expects a prompt answer.

The Secretary of State to Ambassador Gerard.

[Telegram—Paraphrase.]

DEPARTMENT OF STATE,
Washington, March 29, 1916.

Mr. Lansing states that the Department has been advised that on March 27 the ship *Manchester Engineer* with American citizens on board was torpedoed off Waterford without warning.

Mr. Gerard is directed to make inquiry of the German Foreign Minister as to whether a submarine of Germany or her allies sank the *Manchester Engineer*.

The Department expects a prompt answer.

The Secretary of State to Ambassador Gerard.

[Telegram—Paraphrase.]

DEPARTMENT OF STATE,
Washington, April 1, 1916.

Mr. Lansing states that information has been received by the Department that the *Eagle Point*, a British steamer with Americans aboard,

was torpedoed on March 28, after surrender. The vessel was bound from St. Johns, New Brunswick, to Cherbourg, France, and those on board were left 130 miles south of Queenstown in two small boats, with a stormy wind blowing, in a heavy sea.

Mr. Gerard is directed to inquire immediately of the German Government whether a submarine belonging to Germany or her allies torpedoed the *Eagle Point*. A prompt reply is expected by the Department.

The Secretary of State to Ambassador Gerard.

[Telegram—Paraphrase.]

DEPARTMENT OF STATE.

Washington, April 1, 1916.

Mr. Lansing states that the Department is in receipt of information that the *Berwindvale*, a British steamer with four Americans on board, was on March 16 torpedoed off Bantry, Ireland, without warning. Apparently the *Berwindvale* was coming to the United States for cargo.

Mr. Gerard is directed to inquire of the German Government whether a submarine of Germany or her allies torpedoed the *Berwindvale*. The Department expects a prompt reply.

Ambassador Gerard to the Secretary of State.

[Telegram.]

No. 3735.]

AMERICAN EMBASSY,
Berlin, April 11, 1916.

Following note just received:

FOREIGN OFFICE,
Berlin, April 10, 1916.

The undersigned has the honor to inform His Excellency, Mr. James W. Gerard, ambassador of the United States of America, in reply to the notes of the 29th and 30th ultimo and the 3d instant on the subject of the steamers *Sussex*, *Manchester Engineer*, *Englishman*, *Berwindvale*, and *Eagle Point*, that the cases mentioned have been subjected to a careful investigation by the Admiralty Staff of the Navy, in accordance with

my notes of the 30th and 31st ultimo and the 4th and 5th instants, and that all this investigation has led to the following results:

One. English steamer *Berwindvale*.—A steamer, which was possibly the *Berwindvale*, was encountered by a German submarine on the evening of the 16th of March within sight of Bullrock Light on the Irish coast. As soon as the steamer noticed the submarine, which was traveling on the surface, she turned and ran away. She was called upon to stop by a shot of warning, but did not heed this warning, put out all her lights, and tried to escape. She was thereupon shelled until she stopped and lowered several boats without receiving further orders. After the crew had entered the boats and had sufficient time to pull off to a distance the ship was sunk.

The name of this steamer has not been ascertained. Even with the help of the data furnished by the American Embassy it is not possible to say with certainty that the incident described above relates to the steamer *Berwindvale*. But since the steamer sunk was a tank steamer, like the *Berwindvale*, it may be assumed that the vessels are identical; in this case, however, the statement of the embassy that the *Berwindvale* was torpedoed without warning would conflict with the facts.

Two. English steamer *Englishman*.—On March 24 this steamer was ordered to stop by two shots of warning by a German submarine about 20 nautical miles west of Islay, but continued on her course without paying any attention to the warning and was therefore forced to stop by the submarine by means of artillery fire after a long pursuit; she then lowered boats without receiving further orders. After the German commander had convinced himself that the crew had entered the boats and pulled away from the vessel he sank the steamer.

Three. English steamer *Manchester Engineer*.—It has not been possible to ascertain by the investigation conducted as yet whether the attack on this steamer, which took place off Waterford on March 27 according to the statements of the embassy, is traceable to a German submarine. The data furnished regarding the place and time of the incident do not afford a sufficient clue for the investigation. The receipt of more exact details concerning place, time, and attendant circumstances of the attack reported to the American Government would therefore be desired in order that the investigation may then be brought to a conclusion.

Four. English steamer *Eagle Point*.—On the morning of March 28 this steamer was ordered to stop by a German submarine by signal and shot about 100, not 130, nautical miles from the southwest coast of Ireland, but she continued on her course. She was thereupon shelled until she stopped, and without receiving further orders lowered two boats which the crew entered. After the commander had convinced himself that the boats, which had hoisted sails, had gotten clear of the steamer he sank her.

At the time of the sinking a north-northwest wind of the second strength was blowing, not a "stormy wind," and there was a slight roll

against the wind, not a "heavy sea," as asserted in the Embassy's statement of the facts. The boats furthermore had every prospect of being picked up very soon, since the place of the sinking was on one of the much used steamer routes. If the crew of the steamer in rescuing themselves made use of only two small boats they are themselves to blame, for there were at least four large folding boats on the steamer, as the submarine was able to ascertain.

Five. French steamer *Sussex*.—The establishment of the fact whether the channel steamer *Sussex* was damaged by a German submarine or not has been made extraordinarily difficult, because no exact data concerning place, time, and attendant circumstances of the sinking were known and no picture of this vessel could be obtained until April 6. Consequently the investigation had to embrace every one of the undertakings which took place in the channel on or near the route between Folkestone and Dieppe on March 24, the day in question.

In this locality a long black vessel without a flag, with a gray smokestack and a small gray superstructure, and with two tall masts, was encountered by a German submarine on March 24 about the middle of the English Channel. The German commander gained the definite conviction that he had before him a war vessel, a mine layer of the newly constructed English *Arabic* class. He was led to this conviction, one, by the flush deck of the vessel; two, by the warship form of stern, protruding diagonally backward and then falling downward; three, by the warship like coat of paint; four, by the high speed of about 18 sea miles developed by the vessel; five, by the circumstance that the vessel did not follow the course to the north of the lightbuoys between Dungeness and Beachy Head, which is the customary course for merchant shipping according to the frequent and uniform observations of the German submarines, but sailed in the middle of the channel, pointing about for Havre. He consequently attacked the ship submerged at 3.55 o'clock p. m., Central European time, $1\frac{1}{2}$ sea miles southeast of Bullrock Bank. The torpedo struck and caused such a severe explosion in the foreship that the whole foreship was torn loose up to the bridge. The particularly severe explosion permits the safe conclusion that there were large quantities of ammunition on board.

The German commander has made a sketch of the vessel attacked by him, two reproductions of which are attached. The picture of the steamer *Sussex*, two copies of which are likewise attached, is a photograph taken from the English *Daily Graphic* paper of the 27th ultimo. A comparison of the sketch with the picture shows that the *Sussex* is not identical with the vessel attacked; the difference in the position of the smokestacks and the shape of the stern is particularly prominent. No further attack whatever was made by German submarines at the time coming into question for the *Sussex* on the way between Folkestone and Dieppe.

From this the German Government is forced to assume that the damaging of the *Sussex* is to be attributed to another cause than the

attack of a German submarine. In order that the true state of affairs may be cleared up, the fact may possibly be of use that on the 1st and 2d of April alone no less than 26 English mines were exploded by German naval forces in the channel; the whole of that part of the seas is dangerous owing to floating mines and torpedoes which have not sunk. The waters near the English coast will be still more dangerous on account of German mines also which have been sowed against the hostile naval forces.

Should the American Government have at its disposal further material for forming judgment on the case of the *Sussex* the German Government begs to request that this material may be communicated to it in order that it may be able to subject this material to an examination also. In the event of differences of opinion arising between the two Governments in this connection, the German Government declares at this time its readiness to permit the facts to be ascertained by a mixed committee of investigation, pursuant to the third title of The Hague Convention of October 18, 1907, for the pacific settlement of international disputes.

The undersigned requests that the above be brought to the knowledge of the Government of the United States and avails himself of this opportunity to renew, etc.

VON JAGOW.
GERARD.

The Secretary of State to Ambassador Gerard.

[Telegram.]

DEPARTMENT OF STATE,
Washington, April 18, 1916.

You are instructed to deliver to the Secretary of Foreign Affairs a communication reading as follows:

I did not fail to transmit immediately, by telegraph, to my Government Your Excellency's note of the 10th instant in regard to certain attacks by German submarines, and particularly in regard to the disastrous explosion which on March 24, last, wrecked the French steamship *Sussex* in the English Channel. I have now the honor to deliver, under instructions from my Government, the following reply to Your Excellency:

Information now in the possession of the Government of the United States fully establishes the facts in the case of the *Sussex*,¹ and the in-

¹ The text of the evidence is printed in an appendix, *infra*, p. 230.

ferences which my Government has drawn from that information it regards as confirmed by the circumstances set forth in Your Excellency's note of the 10th instant. On the 24th of March, 1916, at about 2.50 o'clock in the afternoon, the unarmed steamer *Sussex*, with 325 or more passengers on board, among whom were a number of American citizens, was torpedoed while crossing from Folkestone to Dieppe. The *Sussex* had never been armed; was a vessel known to be habitually used only for the conveyance of passengers across the English Channel; and was not following the route taken by troop ships or supply ships. About 80 of her passengers, noncombatants of all ages and sexes, including citizens of the United States, were killed or injured.

A careful, detailed, and scrupulously impartial investigation by naval and military officers of the United States has conclusively established the fact that the *Sussex* was torpedoed without warning or summons to surrender and that the torpedo by which she was struck was of German manufacture. In the view of the Government of the United States these facts from the first made the conclusion that the torpedo was fired by a German submarine unavoidable. It now considers that conclusion substantiated by the statements of Your Excellency's note. A full statement of the facts upon which the Government of the United States has based its conclusion is inclosed.

The Government of the United States, after having given careful consideration to the note of the Imperial Government of the 10th of April, regrets to state that the impression made upon it by the statements, and proposals contained in that note is that the Imperial Government has failed to appreciate the gravity of the situation which has resulted, not alone from the attack on the *Sussex* but from the whole method and character of submarine warfare as disclosed by the unrestrained practice of the commanders of German undersea craft during the past twelvemonth and more in the indiscriminate destruction of merchant vessels of all sorts, nationalities, and destinations. If the sinking of the *Sussex* had been an isolated case the Government of the United States might find it possible to hope that the officer who was responsible for that act had wilfully violated his orders or had been criminally negligent in taking none of the precautions they prescribed, and that the ends of justice might be satisfied by imposing upon him an adequate punishment, coupled with a formal disavowal of the act and payment of a suitable indemnity by the Imperial Government. But, though the attack upon the *Sussex* was manifestly indefensible and

caused a loss of life so tragical as to make it stand forth as one of the most terrible examples of the inhumanity of submarine warfare as the commanders of German vessels are conducting it, it unhappily does not stand alone.

On the contrary, the Government of the United States is forced by recent events to conclude that it is only one instance, even though one of the most extreme and most distressing instances, of the deliberate method and spirit of indiscriminate destruction of merchant vessels of all sorts, nationalities, and destinations which have become more and more unmistakable as the activity of German undersea vessels of war has in recent months been quickened and extended.

The Imperial Government will recall that when, in February, 1915, it announced its intention of treating the waters surrounding Great Britain and Ireland as embraced within the seat of war and of destroying all merchant ships owned by its enemies that might be found within that zone of danger, and warned all vessels, neutral as well as belligerent, to keep out of the waters thus proscribed or to enter them at their peril, the Government of the United States earnestly protested. It took the position that such a policy could not be pursued without constant gross and palpable violations of the accepted law of nations, particularly if submarine craft were to be employed as its instruments, inasmuch as the rules prescribed by that law, rules founded on the principles of humanity and established for the protection of the lives of noncombatants at sea, could not in the nature of the case be observed by such vessels. It based its protest on the ground that persons of neutral nationality and vessels of neutral ownership would be exposed to extreme and intolerable risks; and that no right to close any part of the high seas could lawfully be asserted by the Imperial Government in the circumstances then existing. The law of nations in these matters, upon which the Government of the United States based that protest, is not of recent origin or founded upon merely arbitrary principles set up by convention. It is based, on the contrary, upon manifest principles of humanity and has long been established with the approval and by the express assent of all civilized nations.

The Imperial Government, notwithstanding, persisted in carrying out the policy announced, expressing the hope that the dangers involved, at any rate to neutral vessels, would be reduced to a minimum by the instructions which it had issued to the commanders of its submarines, and assuring the Government of the United States that it would take

every possible precaution both to respect the rights of neutrals and to safeguard the lives of noncombatants.

In pursuance of this policy of submarine warfare against the commerce of its adversaries, thus announced and thus entered upon in despite of the solemn protest of the Government of the United States, the commanders of the Imperial Government's undersea vessels have carried on practices of such ruthless destruction which have made it more and more evident as the months have gone by that the Imperial Government has found it impracticable to put any such restraints upon them as it had hoped and promised to put. Again and again the Imperial Government has given its solemn assurances to the Government of the United States that at least passenger ships would not be thus dealt with, and yet it has repeatedly permitted its undersea commanders to disregard those assurances with entire impunity. As recently as February last it gave notice that it would regard all armed merchantmen owned by its enemies as part of the armed naval forces of its adversaries and deal with them as with men-of-war, thus, at least by implication, pledging itself to give warning to vessels which were not armed and to accord security of life to their passengers and crews; but even this limitation their submarine commanders have recklessly ignored.

Vessels of neutral ownership, even vessels of neutral ownership bound from neutral port to neutral port, have been destroyed along with vessels of belligerent ownership in constantly increasing numbers. Sometimes the merchantmen attacked have been warned and summoned to surrender before being fired on or torpedoed; sometimes their passengers and crews have been vouchsafed the poor security of being allowed to take to the ship's boats before the ship was sent to the bottom. But again and again no warning has been given, no escape even to the ship's boats allowed to those on board. Great liners like the *Lusitania* and *Arabic* and mere passenger boats like the *Sussex* have been attacked without a moment's warning, often before they have even become aware that they were in the presence of an armed ship of the enemy, and the lives of non-combatants, passengers, and crew have been destroyed wholesale and in a manner which the Government of the United States can not but regard as wanton and without the slightest color of justification. No limit of any kind has in fact been set to their indiscriminate pursuit and destruction of merchantmen of all kinds and nationalities within the waters which the Imperial Government has chosen to designate as lying within the seat of war. The roll of Americans who have lost their lives upon

ships thus attacked and destroyed has grown month by month until the ominous toll has mounted into the hundreds.

The Government of the United States has been very patient. At every stage of this distressing experience of tragedy after tragedy it has sought to be governed by the most thoughtful consideration of the extraordinary circumstances of an unprecedented war and to be guided by sentiments of very genuine friendship for the people and Government of Germany. It has accepted the successive explanations and assurances of the Imperial Government as of course given in entire sincerity and good faith, and has hoped, even against hope, that it would prove to be possible for the Imperial Government so to order and control the acts of its naval commanders as to square its policy with the recognized principles of humanity as embodied in the law of nations. It has made every allowance for unprecedented conditions and has been willing to wait until the facts became unmistakable and were susceptible of only one interpretation.

It now owes it to a just regard for its own rights to say to the Imperial Government that that time has come. It has become painfully evident to it that the position which it took at the very outset is inevitable, namely, the use of submarines for the destruction of an enemy's commerce, is, of necessity, because of the very character of the vessels employed and the very methods of attack which their employment of course involves, utterly incompatible with the principles of humanity, the long-established and incontrovertible rights of neutrals, and the sacred immunities of noncombatants.

If it is still the purpose of the Imperial Government to prosecute relentless and indiscriminate warfare against vessels of commerce by the use of submarines without regard to what the Government of the United States must consider the sacred and indisputable rules of international law and the universally recognized dictates of humanity, the Government of the United States is at last forced to the conclusion that there is but one course it can pursue. Unless the Imperial Government should now immediately declare and effect an abandonment of its present methods of submarine warfare against passenger and freight-carrying vessels, the Government of the United States can have no choice but to sever diplomatic relations with the German Empire altogether. This action the Government of the United States contemplates with the greatest reluctance but feels constrained to take in behalf of humanity and the rights of neutral nations.

LANSING.

STATEMENT OF FACTS IN "SUSSEX" CASE.

ACCOMPANYING NOTE TO GERMAN GOVERNMENT OF APRIL 18, 1916.

The French channel steamer *Sussex*, employed regularly in passenger service between the ports of Folkestone, England, and Dieppe, France, as it had been for years (Statement of the French Ministry of Foreign Affairs ¹), left Folkestone for Dieppe at 1.25 p. m., March 24, 1916, with 325 or more passengers and a crew of 53 men. (Declaration of Captain Mouffet; ² report of Rear Admiral Grasset.³) The passengers, among whom were about 25 American citizens (Telegram London Embassy, March 25,⁴ and Paris Embassy, March 26 ⁴ and 28 ⁴) were of several nationalities and many of them were women and children and nearly half of them subjects of neutral states. (Report of Commander Sayles and Lieutenant Smith; ⁵ Rear Admiral Grasset's report.³) The *Sussex* carried no armament (Statement of French Ministry of Foreign Affairs; ¹ report of Commander Sayles and Lieutenant Smith,⁵ affidavits of American passengers), has never been employed as a troop ship, and was following a route not used for transporting troops from Great Britain to France. (British Admiralty statement; ⁴ Statement of French Ministry of Foreign Affairs.¹)

The steamer proceeded on its course almost due south after passing Dungeness. (Declaration of Captain Mouffet.²) The weather was clear and the sea smooth. (Affidavits of Edna Hale,⁶ John H. Hearley,⁷ Gertrude W. Warren.⁸) At 2.50 p. m., when the *Sussex* was about 13 miles from Dungeness (Declaration of Captain Mouffet ²), the captain of the vessel, who was on the bridge, saw about 150 meters from the ship, on the port side, the wake of a torpedo. (Declaration of Captain Mouffet.²) It was also seen very clearly by the first officer and the boatswain who were with the captain on the bridge. (Report of Rear Admiral Grasset.³) Immediately the captain gave orders to port the helm and stop the starboard engine (Declaration of Captain Mouffet ²), the purpose being to swing the vessel to starboard so as to dodge the torpedo by allowing it to pass along the port bow on a line converging with the altered course of the steamer. Before, however, the vessel could be

¹ See pp. 230 and 289.² See p. 246.³ See p. 279.⁴ Not printed.⁵ See p. 287.⁶ See p. 275.⁷ See p. 266.⁸ See p. 259.

turned far enough to avoid crossing the course of the torpedo, the latter struck the hull at an angle a short distance forward of the bridge, exploded, destroyed the entire forward part of the steamer as far back as the first water-tight bulkhead, carried away the foremast with the wireless antennæ and killed or injured about 80 of the persons on board, (Declaration of Captain Mouffet;² report of Rear Admiral Grasset;³ deposition of Henry S. Beer.⁹) At the time no other vessel was in sight. (Affidavits of Samuel F. Bemis,¹⁰ T. W. Culbertson,¹¹ John H. Hearley,⁶ and others.¹²)

The approach of the torpedo was witnessed by several other persons on the vessel. (Affidavits of Samuel F. Bemis,¹⁰ Henry S. Beer,⁹ Gertrude W. Warren.⁸) One of these, an American citizen named Henry S. Beer, was leaning on the port rail about 10 feet behind the bridge and gazing seaward when he saw the approaching torpedo about 100 yards away and exclaimed to his wife and companion: "A torpedo!" Immediately following his exclamation the missile struck the vessel. (Depositions of Henry S. Beer⁹ and Mrs. Henry S. Beer.¹³)

In further corroboration of the fact, that the captain saw the torpedo coming toward the vessel, is the sworn statement of the engineers on duty that the order to port the helm and to stop the starboard engine was received and obeyed. (Report of Admiral Grasset.³) No reasonable explanation can be given for this unusual order other than that the captain saw something which caused him to change his course sharply to starboard.

In addition to this evidence which would in itself appear to be conclusive that the agent of destruction was a torpedo, is that of Lieutenant Smith, United States Navy, attached to the American Embassy at Paris, who, accompanied by Major Logan, United States Army, of the Embassy, went to Boulogne, inspected the hull of the *Sussex* and personally found beneath the mass of water-soaked debris of the wreck 15 pieces of metal,¹⁴ which they retained in their possession as they did not believe the pieces formed part of the vessel. The inspection of the hull disclosed that the vessel was wrecked by an external explosion, the boilers being intact, and that a short distance forward of the bridge was a large dent showing that the vessel had received a heavy blow, the direction of

⁹ See p. 274.

¹⁰ See p. 249.

¹¹ See p. 253.

¹² See affidavits, pp. 253, 257, 259, 260, 262, 264, 269, 271, 275.

¹³ See p. 287.

¹⁴ See pp. 283, 290, and 293.

impact being from abaft the beam along a line at an acute angle with the keel of the vessel. (Report of Lieutenant Smith, cabled April 1.¹⁵) This evidence coincides with and corroborates the statement that the vessel was swinging to starboard and away from the torpedo when struck.

The pieces of metal, which the American officers had collected, were compared by Lieutenant Smith, Lieutenant Commander Sayles and Major Logan with mines and plans of mines in possession of the French Naval authorities at Boulogne, Rochefort, and Toulon, and British Naval authorities at Portsmouth. These officers are positive in their opinion that these pieces of metal were not parts of a mine. (Report of Lieutenant Smith, cabled April 1 and 5.¹⁶)

Among these 15 pieces of metal were two screw-bolts showing the effects of an explosion, which were stamped with "K" and "56" on faces of the head of one, and "K" and "58" on faces of the head of the other. On examining German torpedoes in the possession of the French Naval authorities at Toulon, and of the English Naval authorities at Portsmouth, the American officers found that identical screws with the letter "K" and a number were employed to fasten the "war" head (kopf) to the air chamber. (Lieutenant Smith's reports, cabled April 2, 5, and 13.¹⁷)

The screws used in French and English torpedoes have no markings and are of a slightly different size. (Same reports.) Furthermore, the American officers were able by comparison and close examination to positively identify and locate all the remaining 13 pieces of metal as parts of a German torpedo, as follows:

Fragment 3, part of inner seat of water relief valve of engine valve.

Fragments 4 and 5, punto bands of engine-room casing.

Fragments 6 to 10 inclusive and 12, parts of engine cylinders.

Fragments 11, 13, 14, 15, parts of steel war head still bearing the distinctive red paint common to German torpedo war heads. (Report of Lieutenant Smith,¹⁸ cabled April 5.)

In view of these authenticated facts there can be no reasonable doubt but that the *Sussex* was torpedoed and that the torpedo was of German manufacture. As no vessel was seen by any person on the *Sussex*, the conclusion is irresistible that the torpedo was launched without warning from a submarine which was submerged at the time of the attack and remained beneath the surface after the explosion.

¹⁵ See report dated March 30, p. 230.

¹⁶ See pp. 283 and 287.

¹⁷ See pp. 230, 283, 290, 293.

¹⁸ See p. 287.

The conclusion thus reached from the evidence (the affidavits being those of American citizens) collected by the Department of State is substantiated by the statements in the Imperial Government's note of April 10, 1916. According to those statements—

(a) A German submarine torpedoed a steamer $1\frac{1}{2}$ miles southeast of Bull Rock Bank.

Department's comment.—The point of attack is exactly in the course which was taken by the *Sussex* after passing Dungeness and about $\frac{1}{2}$ mile from the place where the captain of the *Sussex* states he was torpedoed.

(b) The attack took place at 3.55 o'clock p. m., Central European time.

Department's comment.—3.55 p. m., Central European time would correspond to 2.55 p. m., Western European time. The time of the striking of the torpedo according to the captain of the *Sussex*, and the stopping of the clocks on board the vessel, was 2.50 p. m., Western time.

(c) The torpedo, when it struck, caused an explosion which tore away the whole foreship up to the bridge.

Department's comment.—The forepart of the *Sussex* was wrecked as far back as the first water-tight bulkhead, according to the official reports.

(d) The German submarine was submerged when the torpedo was launched and there is no statement that it came to the surface after the attack.

Department's comment.—The conclusion was reached that the submarine was submerged from the fact that no one on the *Sussex* saw a submarine though the weather was fine.

(e) No warning was given and no attempt was made to give one since it is not mentioned.

Department's comment.—The evidence collected shows affirmatively no warning was given.

(f) A sketch by the submarine commander of the steamer which he torpedoed does not agree with a photograph of the *Sussex* in the London Graphic.

Department's comment.—This sketch was apparently made from memory of an observation of the vessel through a periscope. As the only differences noted by the commander, who relied on his memory, were the position of the smokestack and the shape of the stern, it is to be presumed the vessels were similar in other respects.

(g) No other German submarines on that day attacked steamers in that locality.

Department's comment.—As no vessel is reported to have been torpedoed without warning by a submerged submarine other than the *Sussex*, it is beyond question that that vessel was torpedoed by the submarine whose commander's report is relied upon in the note of April 10.

LANSING.

Ambassador Gerard to the Secretary of State.

[Telegram.]

No. 3848.]

AMERICAN EMBASSY,
Berlin, May 4, 1916.

Following is the text of the note handed to me both in German and English at 5.30 this afternoon by Secretary of State for Foreign Affairs:

FOREIGN OFFICE,
Berlin, May 4, 1916.

The undersigned, on behalf of the Imperial Government, has the honor to present to His Excellency the Ambassador of the United States, Mr. James W. Gerard, the following reply to the note of April 20 regarding the conduct of German submarine warfare:

The German Government has handed over to the proper naval authorities for further investigation the evidence concerning the *Sussex*, as communicated by the Government of the United States. Judging by results that this investigation has hitherto yielded, the German Government is alive to the possibility that the ship mentioned in the note of April 10 as torpedoed by a German submarine is actually identical with the *Sussex*. The German Government begs to reserve further communications on the matter until certain points are ascertained which are of decisive importance for establishing the facts of the case. Should it turn out that the commander was wrong in assuming the vessel to be a man-of-war the German Government will not fail to draw the consequences resulting therefrom.

In connection with the case of the *Sussex*, the Government of the United States has made a series of statements, gist of which is the assertion that this incident is to be considered as one instance for the deliberate method of indiscriminate destruction of vessels of all sorts, nationalities, and destinations by German submarine commanders.

The German Government must emphatically repudiate this assertion. The German Government, however, thinks it of little avail to enter into details in the present stage of affairs, more particularly as the Government of the United States has omitted to substantiate this assertion by reference to concrete facts. The German Government will only state that it has imposed far-reaching restraints upon the use of the submarine weapon solely in consideration of the interests of neutrals, in spite of the fact that these restrictions are necessarily of advantage to Germany's enemies; no such consideration has ever been shown to the neutrals by Great Britain and her allies.

The German submarine forces have had, in fact, orders to conduct submarine warfare in accordance with the general principles of visit and search and destruction of merchant vessels as recognized by international law, the sole exception being the conduct of warfare against the enemy trade carried on enemy freight ships that are encountered in the war zone surrounding Great Britain; with regard to these no assurances have ever been given to the Government of the United States; no such assurance was contained in the declaration of February 8, 1916. The German Government can not admit any doubt that these orders have been given and are executed in good faith. Errors have actually occurred; they can in no kind of warfare be avoided altogether, and allowances must be made in the conduct of naval warfare against an enemy resorting to all kinds of ruses, whether permissible or illicit. But, apart from the possibility of errors, naval warfare, just like warfare on land, implies unavoidable dangers for neutral persons and goods entering the fighting zone. Even in cases where naval action was confined to their ordinary forms of cruiser warfare, neutral persons and goods have repeatedly come to grief. The German Government has repeatedly and explicitly pointed out the dangers from mines that have led to the loss of numerous ships. The German Government has made several proposals to the Government of the United States in order to reduce to a minimum for American travelers and goods the inherent dangers of naval warfare. Unfortunately the Government of the United States has decided not to accept these proposals; had it accepted, the Government of the United States would have been instrumental in preventing the greater part of the accidents that American citizens have met with in the meantime. The German Government still stands by its offer to come to an agreement along these lines.

As the German Government has repeatedly declared, it can not dispense with the use of the submarine weapon in the conduct of warfare against enemy trade. The German Government, however, has now decided to make a further concession in adapting the methods of submarine warfare to the interests of the neutrals; in reaching this decision the German Government has been actuated by considerations which are above the level of the disputed question.

The German Government attaches no less importance to the sacred principles of humanity than the Government of the United States.

Again, it fully takes into account that both Governments have for many years coöperated in developing international law in conformity with these principles, the ultimate object of which has been always to confine warfare on sea and on land to the armed forces of the belligerents and to safeguard, as far as possible, noncombatants against the horrors of war.

But, although those considerations are of great weight, they alone would not, under the present circumstances, have determined the attitude of the German Government.

For, in answer to the appeal made by the United States Government on behalf of the sacred principles of humanity and international law, the German Government must repeat once more with all emphasis that it was not the German but the British Government which, ignoring all the accepted rules of international law, has extended this terrible war to the lives and property of noncombatants, having no regard whatever for the interests and rights of the neutrals and noncombatants that through this method of warfare have been severely injured.

In self-defense against the illegal conduct of British warfare, while fighting a bitter struggle for her national existence, Germany had to resort to the hard but effective weapon of submarine warfare. As matters stand, the German Government can not but reiterate its regret that the sentiments of humanity which the Government of the United States extends with such fervor to the unhappy victims of submarine warfare are not extended with the same warmth of feeling to the many millions of women and children who, according to the avowed intentions of the British Government, shall be starved and who, by their sufferings, shall force the victorious armies of the central powers into ignominious capitulation. The German Government, in agreement with the German people, fails to understand this discrimination, all the more as it has repeatedly and explicitly declared itself ready to use the submarine weapon in strict conformity with the rules of international law as recognized before the outbreak of the war, if Great Britain were likewise ready to adapt her conduct of warfare to these rules. The several attempts made by the Government of the United States to prevail upon the British Government to act accordingly have failed because of the flat refusal on the part of the British Government. Moreover, Great Britain has ever since again and again violated international law, surpassing all bounds in outraging neutral rights. The latest measure adopted by Great Britain, declaring German bunker coal as contraband and establishing conditions under which alone English bunker coal shall be supplied to neutrals, is nothing but an unheard of attempt, by way of exaction, to force neutral tonnage into the service of the British trade war.

The German people knows that the Government of the United States has the power to confine this war to the armed forces of the belligerent countries in the interest of humanity and the maintenance of international law. The Government of the United States would have been

certain of attaining this end had it been determined to insist against Great Britain on its incontestable rights to the freedom of the seas. But, as matters stand, the German people is under the impression that the Government of the United States, while demanding that Germany, struggling for her existence, shall restrain the use of an effective weapon, and while making the compliance with these demands a condition for the maintenance of relations with Germany, confines itself to protests against the illegal methods adopted by Germany's enemies. Moreover, the German people knows to what a considerable extent its enemies are supplied with all kinds of war material from the United States.

It will therefore be understood that the appeal made by the Government of the United States to the sentiments of humanity and to the principles of international law can not, under the circumstances, meet with the same hearty response from the German people which such an appeal is otherwise always certain to find here. If the German Government, nevertheless, has resolved to go to the utmost limit of concessions, it has not alone been guided by the friendship connecting the two great nations for over a hundred years, but it also has thought of the great doom which threatens the entire civilized world should this cruel and sanguinary war be extended and prolonged.

The German Government, conscious of Germany's strength, has twice within the last few months announced before the world its readiness to make peace on a basis safeguarding Germany's vital interests, thus indicating that it is not Germany's fault if peace is still withheld from the nations of Europe.

The German Government feels all the more justified to declare that the responsibility could not be borne before the forum of mankind and history if, after 21 months' duration of the war, the submarine question under discussion between the German Government and the Government of the United States were to take a turn seriously threatening the maintenance of peace between the two nations.

As far as it lies with the German Government, it wishes to prevent things from taking such a course. The German Government, moreover, is prepared to do its utmost to confine the operations of war for the rest of its duration to the fighting forces of the belligerents, thereby also insuring the freedom of the seas, as principle upon which the German Government believes, now as before, to be in agreement with the Government of the United States.

The German Government, guided by this idea, notifies the Government of the United States that the German naval forces have received the following orders: In accordance with the general principles of visit and search and destruction of merchant vessels recognized by international law, such vessels, both within and without the area declared as naval war zone, shall not be sunk without warning and without saving human lives, unless these ships attempt to escape or offer resistance.

But neutrals can not expect that Germany, forced to fight for her existence, shall, for the sake of neutral interest, restrict the use of an

effective weapon if her enemy is permitted to continue to apply at will methods of warfare violating the rules of international law. Such a demand would be incompatible with the character of neutrality, and the German Government is convinced that the Government of the United States does not think of making such a demand, knowing that the Government of the United States has repeatedly declared that it is determined to restore the principle of the freedom of the seas, from whatever quarter it is violated.

Accordingly, the German Government is confident that, in consequence of the new orders issued to its naval forces, the Government of the United States will now also consider all impediments removed which may have been in the way of a mutual coöperation towards the restoration of the freedom of the seas during the war as suggested in the note of July 23, 1915, and it does not doubt that the Government of the United States will now demand and insist that the British Government shall forthwith observe the rules of international law universally recognized before the war as they are laid down in the notes presented by the Government of the United States to the British Government on December 28, 1914, and November 5, 1915. Should the steps taken by the Government of the United States not attain the object it desires to have the laws of humanity followed by all belligerent nations, the German Government would then be facing a new situation, in which it must reserve itself complete liberty of decision.

The undersigned avails himself of this occasion to renew to the American Ambassador the assurances of his highest consideration.

VON JAGOW.

Foreign Office informs me note will be given out here to the German newspapers and American correspondents late to-morrow afternoon.

GERARD.

The Secretary of State to Ambassador Gerard.

[Telegram.]

DEPARTMENT OF STATE,
Washington, May 8, 1916.

You are instructed to deliver to the Minister of Foreign Affairs a communication textually as follows:

The note of the Imperial German Government under date of May 4, 1916, has received careful consideration by the Government of the United States. It is especially noted, as indicating the purpose of the Imperial Government as to the future, that it "is prepared to do its

utmost to confine the operations of the war for the rest of its duration to the fighting forces of the belligerents," and that it is determined to impose upon all its commanders at sea the limitations of the recognized rules of international law upon which the Government of the United States has insisted. Throughout the months which have elapsed since the Imperial Government announced, on February 4, 1915, its submarine policy, now happily abandoned, the Government of the United States has been constantly guided and restrained by motives of friendship in its patient efforts to bring to an amicable settlement the critical questions arising from that policy. Accepting the Imperial Government's declaration of its abandonment of the policy which has so seriously menaced the good relations between the two countries, the Government of the United States will rely upon a scrupulous execution henceforth of the now altered policy of the Imperial Government, such as will remove the principal danger to an interruption of the good relations existing between the United States and Germany.

The Government of the United States feels it necessary to state that it takes it for granted that the Imperial German Government does not intend to imply that the maintenance of its newly announced policy is in any way contingent upon the course or result of diplomatic negotiations between the Government of the United States and any other belligerent Government, notwithstanding the fact that certain passages in the Imperial Government's note of the 4th instant might appear to be susceptible of that construction. In order, however, to avoid any possible misunderstanding, the Government of the United States notifies the Imperial Government that it can not for a moment entertain, much less discuss, a suggestion that respect by German naval authorities for the rights of citizens of the United States upon the high seas should in any way or in the slightest degree be made contingent upon the conduct of any other Government affecting the rights of neutrals and non-combatants. Responsibility in such matters is single, not joint; absolute, not relative.

LANISING.

The German Ambassador to the Secretary of State.

GERMAN EMBASSY,
Washington, May 12, 1916.

MR. SECRETARY OF STATE: A German submarine, in January, last, signaled with flags from a distance the Dutch steamer *Bandoeng* to stop. Instead of immediately complying with that summons, permissible under international law, the Dutch steamer turned at high speed on the submarine, whose commander, on the assumption warranted by the circumstances that he had to do with an English ship in disguise bent on

attacking him, then opened fire on her. The steamer *Bandoeng* then stopped and sent over a boat for the examination of the ship's papers. On being asked about his captain's proceeding, the Dutch officer in command of the boat explained that he wanted to come nearer the submarine so as to shorten the visitation formalities.

The Imperial Government finds in the incident occasion to suggest to the neutral Governments that the masters of their merchant ships be given to understand that in the event of thus being stopped by German public vessels the provisions of international law must be observed to the letter and that their special attention be called to the danger incurred by turning their ships on a submarine. Thus alone can incidents of the foregoing description be avoided, the responsibility for which would exclusively lie upon the neutral shipmaster.

Accept, etc.,

BERNSTORFF.

Ambassador Gerard to the Secretary of State.

[Telegram.]

AMERICAN EMBASSY,
Berlin, August 27, 1916.

Foreign Office in a note dated August 26, which was received to-day, replies as follows in regard to American steamer *Owego*:

As established by the Admiralty Staff of the Imperial Navy, a German submarine at 2.40 afternoon, on August 3, with very clear weather and smooth sea, sighted a slow-going steamer of an old type and stood by. At a distance of 6,000 meters the submarine made the steamer a signal to stop and gave two warning shots. As nothing happened on the steamer, whose flag was not recognizable but which nevertheless continued to proceed on its way, three further warning shots were fired. As the steamer neither made an "understood" signal nor stood by, fire was opened on it. After 6 shots (11 shots in all) it hoisted American flag on the forestay and stopped. The distance was now 2,000 meters. The submarine signaled "send immediately boat with the papers," to which the captain of the steamer answered by hoisting his designation signal but did nothing more. When, after a further 17 minutes, no preparations were made to launch a boat the commander of the submarine fired a shot across the steamer's bow. After 10 minutes the first officer came on board the submarine and stated that the captain had not observed the submarine until then. The Imperial Government

can not give any credence to this evasive excuse, since the note of August 18 mentions 10 shots fired at the steamer, from which it is undeniably clear that the warning shots were heard by the captain of the *Owego*, but that no attention was paid to them.

Under these circumstances the Imperial Government finds itself under the necessity of emphasizing the fact that while the conduct of the commander of the submarine was in every respect correct, the behavior of the steamer *Owego* was not in accordance with the rules of international law. The captain would therefore have had only himself to blame had his conduct brought about unpleasant results.

GERARD.

APPENDIX A.
EVIDENCE IN THE ARABIC CASE.

Ambassador W. H. Page to the Secretary of State.

No. 2029.]

AMERICAN EMBASSY,
London, August 23, 1915.

SIR: I have the honor to enclose herewith affidavits of the following six American passengers who were rescued from the S. S. *Arabic*: William Cummins, Claude M. Roode, William Hughes, Peter Dugal, John J. Olschewski, and Christopher McTamney.

I have, etc.,

WALTER HINES PAGE.

[Inclosure No. 1.]

Affidavit of William Cummins.

CONSULATE OF THE
UNITED STATES OF AMERICA,
Liverpool, England.

I, William Cummins, first being duly sworn, do depose and say as follows:

That I was born in Church Merrington, England, on October 22, 1869. That I am an American citizen by naturalization. That my residence is 210 W. 107th Street, New York City. That I was on board the S. S. *Arabic* when she was torpedoed in the Atlantic, and that I was on the top deck, close to the captain's bridge, looking at the steamer which had already been disabled by shell fire. I saw the track of the torpedo, and also saw the torpedo strike the side of the vessel. I heard the captain distinctly state to all in hearing to get life belts and go to the boats, which I lost no time in doing.

I further assert under oath that the vessel was not warned, and am positive that no one on board saw the submarine.

That I got into boat No. 8, commanded by the boatswain, and was taken to Queenstown by the British cruiser *Magnolia*.

WILLIAM CUMMINS.

Subscribed and sworn to before me this 21st day of August, 1915.

HORACE LEE WASHINGTON,
Consul of the United States of America,
Liverpool, England.

[Seal of the American Consulate.]

[Inclosure 2.]

Affidavit of Claude M. Roode.

KINGDOM OF GREAT BRITAIN & IRELAND, COUNTY OF LANCASTER, CITY OF LIVERPOOL, CONSULATE OF THE UNITED STATES OF AMERICA, ss:

I, Claude M. Roode, of 620 Rugby Road, Schenectady, New York, first being duly sworn, do depose and say as follows:

That I am an American citizen, and that I was born at Cannonsville, N. Y., June 3rd, 1883. That I sailed on the White Star steamer *Arabic* from Liverpool for New York on August 18th, 1915. That about 9.30 a. m., August 19th, I was on "B" deck about amidships, and about 200 yards away I saw the track of a torpedo coming, and in my estimation the track was moving at a slight angle to the *Arabic*. I ran forward, as I was apprehensive that the torpedo would strike that part of the vessel where I was standing. The track of the torpedo was the first intimation of danger. That I state positively, under oath, that I know the ship was not hailed by any vessel at about this time, and that no warning whatsoever of any kind was given prior to the sending of the torpedo against the *Arabic*. That after the explosion I assisted by placing life belts on two ladies, and then entered number 3 boat, and was finally landed at Queenstown, whence I proceeded to Liverpool.

CLAUDE M. ROODE.

Subscribed and sworn to before me this 21st day of August, 1915.

HORACE LEE WASHINGTON,
Consul of the United States of America,
Liverpool, England.

[Seal of the American Consulate.]

[Inclosure 3.]

Affidavit of William Hughes.

CONSULATE OF THE
UNITED STATES OF AMERICA,
Liverpool, England.

I, William Hughes, do depose and say as follows:

That my name is William Hughes, and that I was born in Ilwaco, Washington, November 9th, 1893. That my home address in the United States is Kelso, Washington. That I saw the track of the torpedo before it struck the S. S. *Arabic*, and about two minutes after I observed the said track I was washed overboard by the listing of the vessel. That I assert under oath that the vessel was not warned before torpedoing. That I was picked up by the second mate's boat and taken to Queens-town by a British cruiser.

WILLIAM HUGHES.

Subscribed and sworn to before me this 21st day of August, 1915.

HORACE LEE WASHINGTON,
Consul of the United States of America,
Liverpool, England.

[Seal of the American Consulate.]

[Inclosure 4.]

Affidavit of Peter Dugal.

KINGDOM OF GREAT BRITAIN & IRELAND, COUNTY OF LANCASTER, CITY OF LIVERPOOL, CONSULATE OF THE UNITED STATES OF AMERICA, ss:

Peter Dugal, being first duly sworn, doth depose and say as follows:

That I am a native American citizen, born at Mountain Iron, Minnesota, January 25, 1897. That my address is Lamberton, Minnesota. That I sailed as a third-class passenger on the White Star Line S. S. *Arabic* from Liverpool for New York on August 18, 1915. That all went well until the morning of the 19th instant, when at about 9.15 a. m. I was on deck and sighted a steamer in distress and sinking. The *Arabic* altered her course and made towards this vessel. That the *Arabic* had passed this vessel in distress, when at about 9.25 a. m. I personally saw the wake of a torpedo coming towards the *Arabic*, and this torpedo struck the *Arabic* abaft the engine room. That there was a loud ex-

plosion and the vessel at once commenced to sink. That I do further solemnly say under oath that no warning was given of an intention to torpedo the *Arabic* and that no submarine was visible. That I was rescued in one of the *Arabic's* lifeboats and landed at Queenstown at 6.30 p. m. August 19th.

PETER DUGAL.

Subscribed and sworn to this 21st day of August, 1915, before me.

HORACE LEE WASHINGTON,

American Consul, Liverpool, England.

[Seal of the American Consulate.]

[Inclosure 5.]

Affidavit of John J. Olschewski.

CONSULATE OF THE
UNITED STATES OF AMERICA,
Liverpool, England.

I, John J. Olschewski, first being duly sworn, do depose and say as follows:

That I was born in Trenton, N. J., on September 6, 1888. That my residence is 49 Liberty Street, Trenton, N. J. That I was on board the S. S. *Arabic* when she was torpedoed in the Atlantic, and that I was on the top deck, close to the captain's bridge, looking at the steamer which had already been disabled by shell fire. I saw the track of the torpedo and also saw the torpedo strike the side of the vessel. I heard the captain distinctly state to all in hearing to get lifebelts and go to the boats, which I lost no time in doing.

I further assert under oath that the vessel was not warned, and am positive that no one on board saw the submarine. That I got into boat No. 5, and was taken to Queenstown by the British cruiser *Magnolia*.

JOHN J. OLSCHESKI.

Subscribed and sworn to before me this 21st day of August, 1915.

HORACE LEE WASHINGTON,

*Consul of the United States of America,
Liverpool, England.*

[Seal of the American Consulate.]

[Inclosure 6.]

Affidavit of Christopher McTamney.

KINGDOM OF GREAT BRITAIN & IRELAND, COUNTY OF LANCASTER, CITY OF LIVERPOOL, CONSULATE OF THE UNITED STATES OF AMERICA, ss:

I, Christopher McTamney, of 821 Lamberton Street, Trenton, N. J., first being duly sworn, do depose and say as follows:

That I am an American citizen, and was born at Trenton, N. J., on the 29th of June, 1887. That I sailed on the White Star steamer *Arabic* from Liverpool for New York on the 18th August, 1915, as a cabin passenger. That immediately after breakfast on the 19th August I was on "B" deck about 9 a. m. and at about 9.25 a. m. I was standing amidships when I saw the track of a torpedo coming directly towards me at a distance of about two hundred yards. The torpedo struck the *Arabic* just aft amidship, and before the torpedo struck the vessel I state positively, under oath, that no warning whatsoever was given by the submarine, and I did not see the submarine. That I went immediately after the torpedo struck the vessel to the port side of the *Arabic*, and I there advised a lady to get immediately into a boat, and I then ran down to my cabin in order to get some clothes. I got into No. 5 boat and finally landed at Queenstown, whence I proceeded to Liverpool.

CHRISTOPHER MCTAMNEY.

Subscribed and sworn to before me this 21st day of August, 1915.

HORACE LEE WASHINGTON,
Consul of the United States of America,
Liverpool, England.

[Seal of the American Consulate.]

Ambassador W. H. Page to the Secretary of State.

No. 2035.]

AMERICAN EMBASSY,
London, August 24, 1915.

SIR: I have the honor to enclose herewith for your information the affidavit of Captain Finch, late of the *S. S. Arabic*.

I have, etc.

WALTER HINES PAGE.

[Inclosure.]

Affidavit of William Finch, Captain of the steamship Arabic.

KINGDOM OF GREAT BRITAIN AND IRELAND, COUNTY OF LANCASTER,
CITY OF LIVERPOOL, CONSULATE OF THE UNITED STATES OF AMERICA, ss:

William Finch, of 10 Parkside, Egremont, Cheshire, England, Master of the steamship *Arabic*, being first duly sworn, doth depose and say as follows:

That the *Arabic* was struck by a torpedo without warning previously given. That no submarine was seen by the *Arabic*. That the *Arabic* did not try to ram the submarine. That the *Arabic* could not have rammed the submarine had it desired to do so. That there was no time or opportunity to have done so. That the *Arabic* did not try to escape. And further, that there was neither time nor opportunity to escape if it had been desired to do so.

I further make oath and say that at 9.25 a. m., Greenwich Mean time, on the morning of August 19th, 1915, I sent a wireless message to the effect that there was a vessel nearby that had evidently been torpedoed, painted grey, with a black funnel with a white band and a black ball in the band, and that there were two boats with sails set steering towards the land, evidently from the distressed vessel. At the time the *Arabic* was torpedoed I was two miles away from this vessel, on a zigzag course, and was going away from her—not towards her. Five minutes after sending this message referred to I observed a torpedo from the starboard side of the Bridge at a distance of about three hundred feet, a little before the Beam. We noticed the torpedo bubbles and a streak from the torpedo coming towards the *Arabic*. The *Arabic* sunk in about ten minutes after the torpedo struck her.

WM. FINCH.

Subscribed and sworn to this twenty-third day of August, 1915, before me.

HORACE LEE WASHINGTON,
American Consul, Liverpool, England.

[Seal of American Consulate.]

Consul Washington to the Secretary of State.

No. 459.]

AMERICAN CONSULATE,
Liverpool, August 25, 1915.

SIR: Respectfully referring to the Department's cabled instruction of August 24th, directing a report by telegraph of affidavits in *Arabic* case, and also that affidavits from officers and crew of *Dunsley* be obtained and the substance telegraphed to the Department, I have the honor, referring to two cabled messages of the evening of the 24th,¹ and to one of to-day's date, the 25th,¹ to enclose herewith affidavits of the third officer and two members of the crew of the steamship *Dunsley*, statement of the Captain of the *Dunsley* to the Admiralty representative in Liverpool, and record of the verbal interview with the charterers of the *Dunsley* of Captain and chief officer of that vessel; affidavit of the second officer of the *Arabic* with design ¹ attached. A design ¹ is also attached to the affidavit of one of the members of the crew of the *Dunsley*.

I have, etc.,

HORACE LEE WASHINGTON.

[Inclosure 1.]

*Affidavit of F. N. R. Gilbert, Third Officer of Steamship Dunsley.*KINGDOM OF GREAT BRITAIN & IRELAND, COUNTY OF LANCASTER, CITY
OF LIVERPOOL, CONSULATE OF THE UNITED STATES OF AMERICA.

Frederick Nathaniel Richard Gilbert being first duly sworn, doth depose and say as follows:

That my address is 34 Meaburn Street, Liverpool, England. That I was the third mate of the steamship *Dunsley* when she left Liverpool for Boston, on Wednesday, August 18th last. That all went well until Thursday morning the 19th, up to 6.12 a. m., when I heard the report of a shot. I was then on the bridge. The first shot fell wide of the ship, and went into the water on the starboard side of the bridge. The Captain then came on the bridge and went hard a starboard, leaving the submarine who was firing at us right astern. The submarine fired a third shot, which struck the ship under the quarter. I then hoisted the ensign to the flagstaff. The ship was then stopped as the submarine was still firing. I took the ensign off the flagstaff and was then ordered to man my boat. I left the *Dunsley* and the submarine kept circling around, firing

¹ Not printed.

incessantly; when about two miles away from the *Dunsley* and at about 9 o'clock a. m. a vessel I later learned to be the *Arabic* hove in sight. When I first saw the *Arabic* I estimated she was between four and five miles away, and shortly after I sighted her she started a zigzag course. In my opinion the *Arabic* never approached nearer to the *Dunsley* than two miles. A short time after an explosion took place on the *Arabic*. At the time of the explosion the *Arabic* was broadside to the *Dunsley* and moving away from her.

F. GILBERT.

Subscribed and sworn to this 25th day of August, 1915, before me,
 HORACE LEE WASHINGTON,
American Consul, Liverpool, England.

[Seal of American Consulate.]

[Inclosure 2.]

Affidavit of James White, Mess-room Steward of Steamship Dunsley.

KINGDOM OF GREAT BRITAIN & IRELAND, COUNTY OF LANCASTER, CITY
 OF LIVERPOOL, CONSULATE OF THE UNITED STATES OF AMERICA.

James White, being first duly sworn, doth depose and say as follows:

That my address is 147 South York St., Glasgow, Scotland. That I joined the steamship *Dunsley* at Liverpool August 18th as mess-room steward and sailed in her on that day for New York. That all went well until Thursday morning the 19th instant, when, at about 6 o'clock a. m., a German submarine was sighted. The submarine fired on the *Dunsley* and two men were killed and four injured. The Captain of the *Dunsley* ordered the crew to take to the boats. The submarine kept at a distance of about half a mile from the *Dunsley*. When we got clear of the *Dunsley* the submarine shelled her, but she did not sink. We had been in the boat for two hours when we sighted a White Star steamer, and we thought she would come to our rescue. She was then distant about two miles. She kept on a zigzag course until she got in line with the *Dunsley*. Our boat at that time was about two miles off the starboard side of the *Dunsley* and the submarine was also on the starboard side of the *Dunsley*. When the *Arabic* came abreast of the port side of the *Dunsley* the submarine fired a torpedo at the *Arabic*. The chief engineer of the *Dunsley*, who was in our boat at the time, remarked, "It is all up with her." The

Arabic in making a zigzag course certainly was pointed towards the *Dunsley* but never was nearer to her than two miles, and she did not for any continuous length of time remain on a course direct towards her. I attach a rough drawing of the positions.

JAMES WHITE.

Subscribed and sworn to this 25th day of August, 1915, before me,
HORACE LEE WASHINGTON,
American Consul, Liverpool, England.

[Seal of American Consulate.]

[Inclosure 3.]

Affidavit of Christian Jensen, Fireman on Steamship Dunsley.

KINGDOM OF GREAT BRITAIN & IRELAND, COUNTY OF LANCASTER, CITY
OF LIVERPOOL, CONSULATE OF THE UNITED STATES OF AMERICA.

I, Christian Jensen, first being duly sworn do depose and say as follows:

That I was born at Skewe, Denmark, on the 3d August, 1883, and that my present address is at the Sailors' Home, Canning Place, Liverpool. That I left Liverpool, as a fireman, on Wednesday morning, August 18th, on board the steamship *Dunsley*, owned by the London and Northern Steamship Co., 57 Bishopsgate, London, and at the time of her being sunk in the charter of the Cunard Line, Liverpool.

That on Thursday morning, the 19th August, 1915, at about 6.30, the *Dunsley* was fired on by a submarine, without warning, at a distance of about half a mile, intimating that the steamer should stop. A second shot fired by the submarine killed the second cook and a fireman. After this the Captain, Phillip Arkley, stopped the ship and ordered the men to the boats. As soon as we got into the boats the submarine circled around the *Dunsley* several times, sending shots into her side, which ultimately sank her. We were two hours in the boats when the steamship *Arabic* of the White Star Line came into sight at a distance of about two and a half miles. When first sighted the *Arabic* appeared to be coming in our direction on a zigzag course and passed the *Dunsley* half a mile astern. After we seen the *Arabic* the submarine submerged and was not seen again by me. This was two hours after we were got into the boats. Immediately after the *Arabic* passed the *Dunsley* an explosion occurred and it could be seen by me that the *Arabic* was settling down at

the stern. I was then a distance of about two miles from the *Arabic*. The *Arabic* in my opinion was not warned.

CHRISTIAN JENSEN.

Subscribed and sworn to before me this 25th day of August, 1915.

HORACE LEE WASHINGTON,
*Consul of the United States of America,
at Liverpool, England.*

[Seal of the American Consulate.]

[Inclosure 4.]

Statement by Captain Philip Arkley, of Steamship Dunsley.

We left Liverpool for Boston on the 18th August at 6 a. m., and passed the Smalls about 9 p. m. the same day. Course was then shaped W. by S. $\frac{1}{2}$ Mag. so as to pass about 45 miles from the Fastnet.

On the 19th August at 6.15 a. m., when in Lat. $50^{\circ} 50' N.$, Long. $8^{\circ} 30' W.$, a shell was fired from somewhere, which passed over the ship.

At the time the Captain and 3d mate were on the bridge, and a lookout man forward.

A submarine was then observed on the starboard quarter, about 1 mile distant, running well above the surface.

Course was at once altered to bring the submarine astern, and engines worked to maximum speed; the engine room staff working well and willingly.

The submarine rapidly gained on the ship and continued firing, hitting the ship every time in the after part, but the fifth shell carried away part of the bridge and killed the assistant cook and a fireman.

The submarine having now drawn up on the starboard quarter hoisted the signal to abandon ship; she then fired another shot which smashed one of the boats.

There being no other ships in sight, and seeing no chance of escape, and not wishing to sacrifice more lives, I stopped the engines and ordered every one to the boats. This was carried out in perfect order, and as the way came off the ship, having given a back turn to the engine, the two boats were lowered and the ship abandoned.

When the boats were in the water the submarine closed and ordered them to keep clear of the ship, and as soon as this was done, she opened fire again, firing some 10 or 12 shots into the hull. The ship then com-

menced sinking by the head until the propeller was some 6 feet out of water, when she remained in this position.

The boats remained at about two to three miles from the ship under sails and oars, but as the submarine continued to steam round the ship without going alongside, no attempt was made to return to her.

About 9 a. m. a large steamer hove in sight to the northeastward, which proved to be the steamship *Arabic*, and soon afterwards they observed an explosion on board her, and not long afterwards she disappeared.

After the *Arabic* had sunk we sighted the same submarine again cruising in the vicinity of the *Dunsley*. She was about 200 feet long, with 2 guns, one before and the other abaft the Conning tower, a small spar for wireless, painted slate color, no number visible, and no signs of any mines on deck.

At 11 a. m. the *Dunsley* was still afloat, but not having any reason for remaining in the locality the boats were headed for the land, and at 5 p. m. the steamship *Howth Head* of Belfast picked us up and towed the boats towards Galley Head until 7.30 p. m., when torpedo boat *No. 052* came up and took the crew on board, turning over the boats to a mine sweeper, which arrived shortly afterwards.

We landed at Queenstown about 10 p. m., where six men who had been wounded by shell fire were attended and four of them taken to hospital.

I certify this to be a copy of the original statement made to Capt. G. C. Frederick, R. N. Admiralty Representative, Liverpool.

HORACE LEE WASHINGTON,
American Consul, Liverpool, England.

[Seal of American Consulate.]

[Inclosure 5.]

Report of Verbal Interview with the Officers of Steamship Dunsley.

CUNARD STEAMSHIP COMPANY (LTD.),
GENERAL MANAGER'S OFFICE,
August 21, 1915.

STEAMSHIP DUNSLEY.

The captain and chief officer of the above vessel have been in this morning. It appears that they did not see the submarine until she came above the water and immediately commenced to shell them with two

guns. The first shot hit the *Dunsley* amidships. Then they brought the submarine astern and kept her there as best they could, but she went on shelling the ship, and while one or two shells missed, about six or seven altogether took effect; the last one practically blowing away the bridge. They then got the order from the submarine to abandon the ship as she was sinking fast. They took to the boats and the submarine continued to steam round the sinking boat. The *Arabic* was on the port quarter, and although he headed away, the submarine was too quick for him and the first torpedo apparently took effect. The crew of the *Dunsley* were about half a mile off when the *Arabic* sunk. There was a big explosion as she went down.

The chief officer says that the reason so many were saved on the *Arabic* was doubtless owing to the fact that they had been watching the *Dunsley* sink and had everything ready in the boats for lowering. The cook and the fireman of the *Dunsley*, who are lost, were killed by shell fire. One of the apprentices is in Queenstown Hospital in a very serious condition, and there are other minor casualties, the chief officer himself being shot in the leg.

I certify this to be a copy of the record of the verbal interview recorded in the General Manager's office, Cunard Steamship Company, time charterers of steamship *Dunsley*, with captain and chief officer of that vessel.

HORACE LEE WASHINGTON,
American Consul, Liverpool, England

[Seal of American Consulate.]

[Inclosure 6.]

Affidavit of Frederick Fowler Steele, Second Officer of Steamship Arabic.

KINGDOM OF GREAT BRITAIN & IRELAND, COUNTY OF LANCASTER, CITY
OF LIVERPOOL, CONSULATE OF THE UNITED STATES OF AMERICA, ss.

Frederick Fowler Steele, being first duly sworn, doth depose and say as follows:

My residence is Urmston, Hoyle Road, Hoylake, Cheshire.

I left Liverpool on August 17, 1915, as second officer of the steamship *Arabic*.

We sighted the steamship *Dunsley* at about 9 o'clock on the morning of Thursday, August 19. I came on the bridge at 8 a. m., and was on the bridge. I sighted a vessel on the starboard bow, about seven miles away,

which we thought was heading for Queenstown, but which we later ascertained was the *Dunsley*. On approaching nearer to the vessel we found out that the vessel was sinking, going down by the head, and that her name was the *Dunsley*—this we ascertained by personal observation. The captain of the *Arabic* ordered me to work out a position for the *Dunsley*, so I worked one up for 9.25 a. m., which was 50.49 N. and 8.29 W. The captain told me to ring up the Marconi room and to tell the operator to send out a message at once that a steamer had been attacked and was sinking. At this time the *Dunsley* was about two miles away. We then noticed that the *Dunsley's* lifeboats had left the ship, and this confirmed our suspicions that she had been torpedoed. When I came out of the chart room, I went to the starboard side of the bridge and passed the remark to the captain that he must be about somewhere waiting for us—meaning the submarine. We had five men on the lookout at the time. After speaking to the captain, I walked to the starboard end of the bridge and immediately clearly saw a bubbling disturbance in the water, and I also saw a torpedo traveling towards the ship, which apparently had been fired to hit her about the engine room. I attach a design ¹ indicating the track of the torpedo. I state positively that the *Arabic* never attempted to go to the *Dunsley* to effect a rescue. The *Arabic* was on a varying course, according to the commander's orders, as a precaution against submarine attack. Immediately after the torpedo was sighted the order was given "hard a starboard" which turned the *Arabic* away from the presumed direction of the submarine.

I further make oath and say that at the time the *Arabic* was struck by the torpedo she was moving away from the *Dunsley*.

F. F. STEELE.

Subscribed and sworn to this 25th day of August, 1915, before me,

HORACE LEE WASHINGTON,
American Consul, Liverpool, England.

[Seal of American Consulate.]

Ambassador W. H. Page to the Secretary of State.

No. 2052.]

AMERICAN EMBASSY,
London, August 27, 1915.

SIR: I have the honor to enclose herewith a sworn affidavit made by Second Officer William Watt Dockar of the steamship *Dunsley*, regarding

¹ Not printed.

the sinking of the steamship *Dunsley* and the steamship *Arabic* on Thursday, August 19, 1915.

I have, etc.,

WALTER HINES PAGE.

[Inclosure.]

Affidavit of Wm. Watt Dockar, of the steamship "Dunsley."

STATEMENT BY SECOND OFFICER WM. WATT DOCKAR, OF THE STEAMSHIP "DUNSLEY," REGARDING THE SINKING OF THE STEAMSHIP "DUNSLEY" AND THE STEAMSHIP "ARABIC" ON THURSDAY, AUGUST 19, 1915.

We were proceeding in a westward direction in latitude 50° 50' north and longitude 8° 30' west about 45 miles off Kinsale on the Irish coast on Thursday, the 19th of August. At 6.15 a. m. we suddenly heard a shell bursting over our heads and striking the bridge. We discovered a submarine 100 yards distant on the starboard side, which continued to shell for six or seven shells, killing two men and wounding six others. After the submarine had fired about six shells into the *Dunsley*, and while she was firing the shells, she put up a signal, "Abandon ship immediately." We then stopped the steamer, lowered the port boat which dropped astern, and were spoken to by the submarine, which enquired from the 3rd officer if all of the crew had left the ship. He replied "No; half are still on board." The submarine was then 10 or 12 yards from the 3rd officer's boat. He said get away from the ship as soon as possible for fear of an explosion. We then lowered the starboard boat and got clear of the ship, when they continued to shell until they had put about twenty-five shells through the vessel. The submarine continued to circle around the steamer. We estimated the submarine to be 200 feet long and counted about 15 men on deck, and also saw two mounted guns, one on each end.

At about 8.30 we saw a big four-masted steamer proceeding toward the *Dunsley*. We saw the submarine hiding on the starboard side of our ship, away from the approaching ship. We saw her submerge and saw the torpedo being fired, striking this big four-masted vessel. We could plainly see the swish of the torpedo going from the submarine to the large vessel. It struck the large vessel on the starboard quarter. When we first sighted the *Arabic* she was following a straight course. When she sighted the *Dunsley* she then altered her course slightly towards us, in order, we thought, to read the name of our vessel. As the *Dunsley*

was between the submarine and the *Arabic* it was absolutely impossible for the *Arabic* to have seen the submarine, or to have received any warning from her. The ship sank, as far as we could estimate, in 5 minutes from the time of being torpedoed. We thought on account of the vessel sinking so suddenly that no one could have been saved.

We proceeded towards the land, and when 20 miles off the land we were picked up by the steamship *Howth Head* at 5 p. m., and at 7 p. m. we were met by the torpedo boats and two patrol boats.

I solemnly swear that the above stated facts are true to the best of my knowledge and ability.

WM. WATT DOCKAR.

Sworn before me this 26th day of August, 1915, at the American Embassy, London.

EUGENE C. SHOECRRAFT,
Third Secretary of Embassy.

[Seal of the American Embassy.]

Ambassador W. H. Page to the Secretary of State.

No. 2071.]

AMERICAN EMBASSY,
London, August 31, 1915.

SIR: I have the honor to enclose herewith the affidavit of Richard G. Pybus, chief officer of the steamship *Dunsley*, which was sworn to in Whitby on August 27, 1915, before Charles M. Hathaway, Jr., American Consul, Hull.

I have, etc.

WALTER HINES PAGE.

[Inclosure.]

Affidavit of Richard G. Pybus, Chief Officer of Steamship "Dunsley."

Richard Gray Pybus, being duly sworn, deposes and says:

I was chief officer of the steamship *Dunsley*, which left the river Mersey at 6 a. m. on August 18 for Boston, Mass., U. S. A. At 6.12 a. m. August 19, without warning, we were shelled by a submarine. After firing 6 shots and killing two men and injuring 6 others, the submarine

put up signals for us to abandon our vessel immediately. At about 6.40 we left the ship in two lifeboats. The Captain took command of the starboard boat, I of the port. We stood by, and the submarine put some eighteen more shots in the *Dunsley*, circling around her meanwhile. A little after half past eight we sighted a steamer to the eastwards. She approached on a westerly course, and a few minutes after we sighted her appeared to change her course several times. She was evidently a large ship. She passed the *Dunsley* on a general westerly course, about one and a half miles to the south. Our two boats were on the landward side of the *Dunsley*, mine about 100 yards to the southward of the captain's and from a half mile to a mile from the *Dunsley*. Just after the large steamer came into full view from my boat after passing the *Dunsley*, and when she was about S. SW. from the *Dunsley*, I saw a violent explosion on her starboard side which threw up much water. I looked at my watch and it recorded 9.22, and at 9.28 she vanished.

About ten minutes after we sighted the steamer to the eastward I lost sight of the submarine, which had up to that time continued to circle about the *Dunsley*. A few minutes before the explosion I saw the submarine again under the *Dunsley's* starboard bow, where she could not be seen from the approaching steamer. It appeared to me that the submarine was lying in wait for the approaching steamer and my whole attention was fixed on the steamer until she was blown up. After the steamer was blown up I noticed that the submarine was no longer visible. I last saw her some time between 9 and 9.15, but just when she vanished I did not observe. She was lying in the shadow of the *Dunsley*, so that it was easy for her to submerge without attracting our attention. We continued to stand by the *Dunsley* until about 11 o'clock, when we pulled for land, leaving the *Dunsley* in Lat. 50. 50 N., Long. 8.30 W. I did not see the submarine again after the sinking of the large steamer. We did not learn that it was the *Arabic* until we were picked up by a British torpedo boat about 7 o'clock that night. I was unable to detect any mark of identification on the submarine, though I looked carefully with the intent while I was close to her.

RICHARD GRAY PYBUS.

Subscribed and sworn before me at Whitby, England, being within my district, this 27th day of August, 1915.

CHARLES M. HATHAWAY, JR.,
American Consul, Hull.

[Seal of the American Consulate.]

Ambassador W. H. Page to the Secretary of State.

No. 2072.]

AMERICAN EMBASSY,
London, August 31, 1915.

SIR: I have the honor to enclose herewith the affidavit of Philip O. Arkley, master of the steamship *Dunsley*, sworn to at West Hartlepool on August 26, 1915, before Hans C. Nielsen, American consular agent at West Hartlepool.

I have, etc.,

WALTER HINES PAGE.

[Inclosure.]

Affidavit of Philip Orren Arkley, Master of Steamship "Dunsley."

I, Captain Philip Orren Arkley, late master of the steamship *Dunsley*, of London, being duly sworn depose and say that I left Liverpool on the eighteenth day of August, 1915, with a small portion of General cargo (about 350 tons), bound for Boston, Mass., U. S. A. All went well up to 6.12 a. m. on the 19th August, when a shell went over us between the masts. I looked around and saw a submarine about a mile away on our starboard quarter, not having seen anything previously. Our course then was W. $\frac{1}{4}$ N. about 40 miles south of Galley Head. I starboarded and brought the submarine right astern and made all possible speed to get away. He continued shelling us, hitting the ship every time. One shell bursting over the bridge killed two men and injured several others. He was then rapidly overtaking us and the next shell carried part of the upper bridge away. I then considered it impossible to escape and stopped the engines. The submarine signalled to abandon the ship, which we did about 6.40 a. m. I took charge of starboard boat and the Mate R. G. Pybus of the port boat. He fired one shell while the boats were being lowered. The submarine was then on our Port Side and spoke to the Port lifeboat, asking particulars where the ship was from and where bound, and ordering the boats to get away as quickly as possible. He then commenced firing away and put about 12 more shells into the *Dunsley*. She then commenced sinking slowly forward until the bows were awash and stern high out of the water. He rowed clear of the ship and then remained in the vicinity on the Northerly side of the *Dunsley* towards the shore. I looked particularly, but was unable to see any number or distinguishing mark on the submarine. At about 8.30 a. m. while dodging about in our lifeboats under sail we saw the *Arabic* coming

along from the Eastward. Shortly after sighting the *Arabic* we missed from sight the submarine, which had been circling round the *Dunsley* all this time. As the *Arabic* was passing the *Dunsley* about due South and some 2 to 3 miles off my crew in the boat told me (at the time) that they saw the submarine come clear of our ship and submerge, just as if she had been hiding behind the *Dunsley* whilst the *Arabic* was approaching. I did not notice this manoeuvre myself. Shortly afterwards I saw the explosion on the *Arabic*, presuming him to have been torpedoed by the same submarine that attacked the *Dunsley*. The *Arabic* commenced sinking rapidly by the stern and disappeared in about 6 or 7 minutes. I should judge that the *Arabic* was about 7 miles to the Eastward when I first saw her, and that it was about 40 minutes later that the explosion took place. It was a beautiful clear morning. I still kept dodging about until 11 o'clock and then made for the land. The last I saw of the *Dunsley* was about 11.30 o'clock, when she was still afloat. She was then in latitude 50. 50 N. and 8. 30 West.

The *Arabic* passed about 2 to 3 miles South of my vessel steering a westerly course. I should judge she was about South West of the *Dunsley* when the explosion occurred. I did not see the submarine after the *Arabic* was hit. I had no doubt in my own mind then nor have I now that the *Arabic* was torpedoed by the same submarine that attacked the *Dunsley*.

PHILIP O. ARKLEY,
Master.

Subscribed and sworn to before me at the American Consular Agency at West Hartlepool, England, on the 26th day of August, 1915.

HANS C. NIELSEN,
American Consular Agent.

[Seal of the American Consular Agency.]

The German Ambassador to the Secretary of State.

[Translation.]

J Nr. A 6512.]

GERMAN EMBASSY,
Cedarhurst, N. Y., October 20, 1915.

MR. SECRETARY OF STATE: In compliance with my instructions, I have the honor to forward herewith for Your Excellency's information

the following papers concerning the sinking of the British steamer *Arabic*.

1. Certified copy of the report of Captain Lieutenant Schneider, Submarine Commander, of the 2nd of this month with an English translation.

2. Certified copy of the minutes of the examination of witnesses in the case of the sinking of the English steamer *Arabic* by a German submarine, of the 21st of this month, with an English translation.

Accept, etc.,

J. BERNSTORFF.

[Inclosure 1.]

Report upon the sinking of the English steamer Arabic.

On the 19th of August I was lying some 60 miles south of Kinsale beside the steamer *Dunsley* and was about to sink this steamer, after her crew had left her in two lifeboats, by means of gun-fire, when I saw a steamer of some size at considerable distance coming towards me on a southwesterly course. I drew away from the *Dunsley*, first proceeding above water, then in a submerged condition towards the course line of the sighted steamer, in order to obtain her course by bearing her masts in line. As she drew nearer, I saw that the steamer was painted grey, superstructures were not recognizable. The steamer flew no flag; signs of neutrality and names could not be made out. As the steamer approached the *Dunsley* she took her course directly towards this vessel then suddenly altered her course again and came directly towards me. In my opinion it would have been impossible to have taken aboard the occupants of the *Dunsley's* lifeboats in the short interval of time that elapsed between altering the course toward the *Dunsley* and again steering towards me. That the *Dunsley* had been attacked must have been perceived from the steamer, since its forepart was already quite deep in the water. The behavior of the steamer appeared therefore very suspicious to me and forced me to conclude that she had observed me and intended to ram me. I was the more convinced of this, since only as recently as August 14th, 1915, I was attacked by gun-fire in the Irish Sea by a large steamer which apparently belonged to the British "Royal Mail Steam Packet Co.," and this without the slightest provocation. I therefore anticipated the expected ramming of this steamer by attacking it under water. The torpedo struck; the ship sank rapidly. After the discharge of the torpedo I saw a large number of boats—about fifteen—which were nearly all filled. The weather was good. The boats set sail and made for the coast.

It was only after my return that I learned from the newspapers that the steamer which had been sunk in the vicinity of the *Dunsley* had been the *Arabic*.

SCHNEIDER, *Commander*.

BERLIN, *September 2nd, 1915.*

[Inclosure 2.]

Certified copy of examination of witnesses.

BERLIN, *September 21st, 1915.*

In the matter of the sinking of the English steamer *Arabic* by a German submarine, the following witnesses appeared to-day before Judge Kammerich of the Naval Court as Chief Examiner and Able Seaman Wolf as Recording Clerk.

After these witnesses had been reminded of the importance and sanctity of the oath they were each singly examined as follows, none of them in the presence of the other witnesses:

1. COMMANDER SCHNEIDER OF THE GERMAN SUBMARINE.

Regarding Identity: My name is Rudolf Schneider. I was born on February 13th, 1882, at Zittau in Saxony. My religion is Lutheran. I have never been punished by process of law.

Regarding the Facts: Early on the morning of August 19th, 1915, I sighted an English steamer at dawn, about 40 nautical miles south of Kinsale. The steamer was in a position which would have enabled me to approach her only above water. I ordered the signal to be given: "Leave the ship at once," fired a warning shot, and observed that the steamer thereupon turned about and made off. By firing about ten shots I then forced her to stop and ascertained that it was the English steamer *Dunsley*. I gave the crew time to leave the ship in their own boats and then took her under gunfire until she was leaking. The weather was so fair that the crew were able to take to their boats in absolute safety. The boats set sails and made for the shore.

While I was still lying by the *Dunsley* and waiting to see whether she would sink, I saw a steamer of some size at a considerable distance advancing towards me. I steamed away from the *Dunsley* towards the course of the sighted steamer at first, for about a quarter of an hour, above water, then in a submerged state, intending to obtain her course by bringing her masts to bear in a line. As she drew nearer I saw that she was painted grey; superstructures were not recognizable. The steamer

flew no flag; signs of neutrality and names could not be made out. As the steamer approached the *Dunsley* she took her course directly towards this vessel; then suddenly altered her course again and came directly towards me. In my opinion it would have been impossible to have taken aboard the occupants of the *Dunsley's* lifeboats in the short interval of time that elapsed between altering the course toward the *Dunsley* and again steering towards me. This turning of the steamer towards the *Dunsley* and then the sudden alteration of course towards me, without paying the least attention to the lifeboats, were the more extraordinary, inasmuch as steamers which, according to the nature of the situation, must assume that submarines are in the neighborhood, are accustomed to remove themselves with all possible speed and on a course in accordance with this purpose from the assumed vicinity of the submarines. I have myself observed on numerous occasions this manœuvre on the part of enemy vessels.

That the *Dunsley* had been attacked must have been observed from the second steamer, since the *Dunsley's* bow was already lying deeply in the water. The steamer now came directly towards me, so that the position of my submarine would have made it possible for her to ram me. She could also have observed me, since I had not only traveled above water for a quarter of an hour upon first leaving the *Dunsley*, but had subsequently been repeatedly obliged to show my periscope. I was, therefore, firmly convinced that she intended to ram me. I was the more convinced of this, since only as recently as August 14th of this year I was attacked in the Irish Sea by a large steamer which, without the slightest provocation, opened gunfire upon me. In order to forestall my being rammed I therefore determined to attack the steamer below water. I made a turn towards the north and fired a bow torpedo at her at right angles to her course. Through the periscope I estimated the angle for a speed allowance of twelve nautical miles, since I held the speed of the steamer to be a middling one. The torpedo struck her starboard quarter; the vessel sank rapidly. After the torpedo had been discharged, a great number of boats were observed—some fifteen—nearly all of which were completely filled. The weather was so good that in my opinion the safety of the people in the boats was assured.

That it was the *Arabic* which was concerned in these events I learned only several days after my return, upon reading the newspaper reports, by which I saw that the *Arabic* had been sunk in the neighborhood of the *Dunsley*.

In Answer to Questions: A considerable time before the occurrence which has been described, I had received order to spare large passenger steamers. The order that no passenger steamer at all was to be attacked without warning is of more recent date. In accordance with this order I had already, prior to the sinking of the *Arabic*, permitted several large passenger steamers, which I might have attacked, to pass by unmolested. For example, during the course of a previous distant cruise near the entrance to the Bristol Channel, I had permitted a large passenger steamer which I recognized as such to escape without molestation, despite the excellent opportunity afforded for attacking it. I may cite another instance which occurred during that cruise on which I sank the *Arabic*. On the 14th of August of this year, in the Irish Sea, I sighted a large steamer astern. She belonged apparently to the Royal Mail Packet Company, and offered me an excellent chance to place myself in her path and attack her. But I recognized her as a passenger steamer, allowed her to pass by, and then took up a course which led away from her. In connection with this I would mention the fact that this steamer began on her own part to open upon me with artillery as soon as I found myself in a position from which I could no longer attack her.

Upon presentation of the Testimony of witnesses as transmitted by the American Ambassador.

In re No. 1, 2: The *Arabic* continued to approach the *Dunsley* until she again took up the course towards me, whereupon she once more left the *Dunsley*. As to within what distance she approached the *Dunsley* I can not exactly say. When the torpedo was fired, I was some five nautical miles distant from the *Dunsley*. The course of the *Arabic* was altered at least twice; my impression of the *Arabic's* course is indicated upon the accompanying sketch.¹

In re No. 3: As I have already explained, upon sighting the *Arabic* I at once proceeded to leave the *Dunsley*, traveling first above, then below, water. Not for a single moment did I make any attempt to conceal myself behind the *Dunsley*.

In re No. 4: It is, of course, impossible for me to give an absolute denial to the assertion that my submarine was not seen from the *Arabic*; but the movements made by the ship forced me to conclude that I had been seen and attacked.

In re No. 5: Since I was threatened by the steamer, I could not think of warning her. Had I risen to the surface under the circumstances that

¹ Not printed.

prevailed it would have meant nothing less than the destruction of my vessel.

In re No. 6 and 7: That the torpedo was not discharged at the *Arabic* from any great distance, was due to the ramming position of that vessel.

I make the foregoing declaration upon my oath of allegiance and give further assurances as to its correctness by swearing to that effect.

Read aloud, attested, and signed,

SCHNEIDER,
Commander.

2. FIRST NAVAL LIEUTENANT LÖWE.

Regarding Identity: My name is Werner Lowe, I was born on July 4th, 1889, at Landsberg on the Warthe; my religion is Lutheran; I have never been punished by process of law.

Regarding the Facts: I was the Officer of the watch on the submarine when the *Dunsley* was sunk. While we were still lying by that ship, another steamer came in sight. We thereupon at once started our engines, and at first proceeded on the surface in a somewhat southerly direction. We traveled above water for about a quarter of an hour at half speed and full speed; we then submerged. From this moment on I was stationed at my post of action and saw nothing further of those proceedings which led to the sinking of the steamer.

Upon presentation of the testimony of witnesses as transmitted by the American Ambassador:

It is not true that the submarine concealed itself even for a moment behind the *Dunsley*, or that it submerged behind the *Dunsley*. From that moment in which the *Arabic* could have sighted us, the *Dunsley* could not possibly have lain between the *Arabic* and the submarine.

I make the foregoing declaration upon my oath of allegiance and give further assurance as to its correctness by swearing to that effect.

Read aloud, attested, and signed,

LÖWE.
First Naval Lieutenant.

3. NAVAL LIEUTENANT VATER.

Regarding Identity: My name is Werner Vater; I was born on May 29th, 1893, at Rudolstadt in Thuringia; my religion is Lutheran; I have never been punished by process of law.

Regarding the Facts: On the morning of August 19th of this year, in

my capacity as Gun Officer of the submarine, I fired a warning shot at the English steamer *Dunsley*. The steamer thereupon veered off and sought to escape with full speed. She was then subjected to gunfire and stopped at the first shot that took effect. The crew left the ship in boats, set sail, and steered for the coast. The weather was very calm. The steamer was then taken under unfire until she was leaking. Whilst we were watching her sink, a large steamer came in sight. I went to the bridge. We at once proceeded above water on a southerly course for about fifteen minutes after leaving the *Dunsley* and then dived. I went to the station assigned me during submersion and saw nothing more of the steamer. During our progress under water I heard the Commander announce at the central station: "The steamer is changing her course."

Upon presentation of the testimony of witnesses as transmitted by the American Ambassador:

The submarine did not hide behind the *Dunsley*; according to my point of view, the crew of the *Dunsley* must still have been in a position to see from their boats that we left the sinking ship under a considerable speed.

I make the foregoing declaration upon my oath of allegiance and give further assurance as to its correctness by swearing to that effect.

Read aloud, attested, and signed.

VATER,
Naval Lieutenant.

4. NAVAL STAFF ENGINEER PETERS.

Regarding Identity: My name is Hans Peters; I was born on December 23rd, 1884, at Lütjenburg in Holstein; my religion is Lutheran; I have never been punished by process of law.

Regarding the Facts: On the morning of the 19th of August of this year, the steamer *Dunsley* was pursued, with our engines working at high pressure, above water, and overtaken. After the steamer had stopped, our engines were converted for submerged travel at 41 minutes past 7 o'clock, since we could not maneuver in a reliable manner with our surface engines during our attempts to sink the steamer by gunfire. On the appearance of another steamer I received orders once more to again switch on the engines for travel on the surface. From 46 minutes past 9 o'clock to 58 minutes past 9 o'clock a. m. we traveled, partly under full engine capacity, above water on a course that led us away from the

Dunsley. At 58 minutes past 9 o'clock a. m. the submarine was got ready for submersion, and then dived. From this time until 12 o'clock noon the submarine remained under water. After we had dived I was not able to see anything further of what took place. I merely heard the Commander announce in the central station that the steamer had changed her course.

Upon presentation of the testimony of witnesses as transmitted by the American Ambassador:

That our submarine kept itself concealed behind the *Dunsley* is a statement which is negatived by the declaration I have made, based upon the entries made by me in the official engine-room log book.

I make the foregoing declaration upon my oath of allegiance and give further assurance as to its correctness by swearing to that effect.

Read aloud, attested, and signed.

PETERS,
First Naval Engineer.

5. SUBMARINE HELMSMAN HEINRICH.

Regarding Identity: My name is Fritz Heinrich; I was born on May 30th, 1888, at Bitterfeld, in the district of Bitterfeld; my religion is Lutheran; I have never been punished by process of law.

Regarding the facts: On the morning of August 19th, 1915, I was on the bridge of the submarine, when we pursued the *Dunsley* after having warned her, and finally forced her to stop. I observed that the crew left the ship in their own boats and sailed towards the land, whilst we circled about the *Dunsley* waiting for her to sink. The weather was good. While we were waiting, a new steamer came into sight a considerable distance off. We left the *Dunsley* under a pretty good speed, following a somewhat southerly course, until the masts of the oncoming steamer bore in line; and then we dived. I saw nothing further of the sinking of the vessel, although the Commander a little later permitted me to look through the periscope, remarking that the steamer was sinking gradually. But I could only see a small section of the bow. Later on I counted the number of boats.

I make the foregoing declaration upon my oath of allegiance and give further assurance as to its correctness by swearing to that effect.

Read aloud, attested, and signed.

HEINRICH,
Submarine Helmsman.

6. SUBMARINE BOATSWAIN'S MATE PREUSS.

Regarding Identity: My name is Albert Preuss; I was born on October 21st, 1892, at Peine; my religion is Lutheran; I have never been punished by process of law.

Regarding the Facts: After the bombardment of the *Dunsley* I was mounting guard upon the turret of the submarine, when I saw a cloud of smoke and several masts upon the horizon. I reported this to the officer of the watch. Hereupon the engine crew were sent below decks to start the oil engines going. I then noticed that we traveled for about 10 minutes on the surface with high speed in a direction away from the *Dunsley*. Then came the order: "Ready to Dive!" and I went below decks. From that moment on I saw nothing further of what went on above water. I was then ordered to mount watch at the underwater rudder and noticed that we kept on the same course for quite a long time.

I make the following declaration upon my oath of allegiance and give further assurance as to its correctness by swearing to that effect.

Read aloud, attested, and signed.

PREUSS,
Submarine Boatswain's Mate.

7. SUBMARINE ABLE SEAMAN BRANDT.

Regarding Identity: My name is Johannes Brandt; I was born on December 17th, 1892, at Postmoor near Horneburg; my religion is Lutheran; I have never been punished by process of law.

Regarding the Facts: After the boats had left the *Dunsley* we fired shots at the steamer. When a new steamer had been reported in sight, we left the *Dunsley* at high speed, above water. After some ten minutes we made ready to dive and had to go to our diving posts. My fighting post is towards the front in the torpedo room. After I had taken my place there, I was not able to see anything more of what went on above water.

I make the foregoing declaration upon my oath of allegiance and give further assurance as to its correctness by swearing to that effect.

Read aloud, attested, and signed.

BRANDT,
Submarine Able Seaman.

8. SUBMARINE SEAMAN DOBBERT

Regarding Identity: My name is Ernst Dobbert; I was born on September 22nd, 1897, at Potsdam; my religion is Lutheran; I have never been punished by process of law.

Regarding the Facts: I am a gunner and fired at the *Dunsley* during the chase and until she hove to. After the boats had left the ship, I once more bombarded her. As a cloud of smoke became visible, we had to suspend our fire. We then traveled at full speed for some ten minutes above water from the spot where the *Dunsley* was lying. During this time I fastened my gun. Then came the order: "Make Ready for Diving!" and since my fighting post is in the front torpedo room, I could not see anything further of what happened above.

I make the foregoing declaration upon my oath of allegiance and give further assurance as to its correctness by swearing to that effect.

Read aloud, attested, and signed.

DOBBERT,
Submarine Seaman.

Closed.

WOLF,
Able Seaman.
KAMMERICH,
Judge of the Naval Court.

APPENDIX B.

EVIDENCE IN THE SUSSEX CASE.

Ambassador Sharp to the Secretary of State.

[Telegram—Paraphrase—Extract.]

AMERICAN EMBASSY,
Paris, March 28, 1916.

Mr. Sharp reports that he has been informed officially by the French Foreign Office that the steamship *Sussex* was not armed and further that channel passenger steamers have not been and are not armed. After having made a careful examination of the *Sussex* at Boulogne, Maj. Logan and Lieut. Smith have reported that they could see no indications on the vessel of any gun mountings.

*Report of Assistant Naval Attaché Smith to Ambassador Sharp.*AMERICAN EMBASSY,
Paris, March 30, 1916.

SIR: I have the honor to submit the following report in regard to the torpedoing of the steamship *Sussex*:

The principal questions upon which the investigation was conducted were:

1. What flag did the *Sussex* fly?
2. Was she armed?
3. Were any American citizens among those killed or missing?
4. Was the *Sussex* struck by a fixed or floating mine, or by a torpedo?

The following conclusion has been arrived at by careful investigation:

1st. As sworn to by crew and passengers, the *Sussex* carried the French flag.

2d. Crew and passengers stated that she was not armed. A careful investigation showed that no armament (machine guns or cannon) were carried on that part of ship now remaining. The entire forward

part of the ship, from the foremast to the stem, was blown away. A thorough investigation leads to believe that no gun was carried on that part of the ship destroyed.

3d. As far as can be ascertained, no Americans are amongst those missing. The bodies of those killed have all been identified to be foreigners.

4th. The question as to whether the ship was struck by a mine or torpedo still remains undetermined. The following course of deduction has been followed, in order to eliminate any possible error:

1. Internal explosion.
2. Fixed mine.
3. Floating mine.
4. Torpedo.

1. The ship has been carefully examined, and no injury found aft of No. 2 water-tight bulkhead, thus eliminating any cause from boiler explosion. That part of the ship destroyed contained a small cargo compartment. A careful search among the débris showed only mail, cloth used for the construction of balloons or aeroplanes, wire for aeroplane construction, and one or several motorcycles.

The captain also declares that no explosives were carried; that a total cargo of three tons was on board, which included mail for India, aeroplane fabric and wire, and some material for the State railroad; also the character of the explosion showed positively, that there was no internal explosion. This in part proves that no internal explosion occurred.

2. Fixed mines, according to all practices and usages, are placed at a certain distance below the surface; this is said to be about 10 to 15 feet at low water. The ship at the time of the accident was in 60 feet of water; the record of the rise and fall showed that the tide was full at 1.37 p. m., March 24, and at 2.50 p. m. was about 25 feet above low water level. It is also claimed that this was an exceptional high tide. This gives that a mine would be at least 30 feet below the surface of the water at the time of the explosion. At the time of leaving Folkestone, the *Sussex* was drawing about 11 feet astern. This eliminates the possibility of the fixed mine.

3. An investigation of the ship's hull showed a large dent between the turn of the bilge and the keel, about 5 to 6 feet below the water-line, and from this indentation the character of the injury showed that this was evidently the point of impact of the explosive. This could not have been produced by a floating mine, as a floating mine, due to its charac-

teristics, contains considerable positive buoyancy and would be found on the surface of the water.

4. The investigation and examination of the hull showed that the ship had received a very heavy blow between the turn of the bilge and keel, just forward of No. 1 water-tight bulkhead, and seems to have come from abaft the beam and to have had a converging course with that of the ship. From the point of impact forward, the entire hull was blown away; the force of the explosion carried upward and toward the stern, completely wrecking that part of the ship between No. 1 and No. 2 bulkheads.

From the character of the injury it is impossible to determine positively that this was done by a torpedo but all evidence leads to believe that it was.

Several pieces of bronze, and two large bronze bolts, numbered and lettered, were found, from which a comparison can be made with German torpedoes now in the hands of the French, which would eliminate any trace of a doubt.

Photographs have been taken and will be submitted with a later report.

I have, etc.,

B. L. SMITH,
First Lieutenant, U. S. M. C.,
Assistant Naval Attaché.

Mr. de Margerie of the French Ministry of Foreign Affairs to Ambassador Sharp.

[Translation.]

MR. AMBASSADOR: Your Excellency was good enough to ask me on the 28th of this month by direction of your Government whether the steamer *Sussex*, of the French line crossing between Dieppe and Folkestone, was armed during the voyage accomplished on the 24th of March, in which she was damaged by an explosion. Your Excellency was good enough at the same time to ask me whether steamers carrying passengers between English and French ports on the channel are customarily armed.

I have the honor to inform Your Excellency that the *Sussex* carried no kind of armament, and that, in a specific manner, the passenger

steamers making the channel service between France and England are not armed.

With the assurances, etc.,

P. DE MARGERIE.

PARIS, March 29, 1916.

Affidavit of Edward H. Huxley and Francis E. Drake.

AMERICAN EMBASSY,
London, March 25, 1916.

At 5 minutes past 3, when we were about an hour and a half from Folkestone, we were seated on the deck talking, a little less than half-way back on the starboard side. Without the slightest warning there occurred a loud, roaring explosion. Wreckage and tons of water were thrown into the air higher than the masts, and the water came down on the boat as far back as the stern. We went forward and saw the entire forward part of the ship, including part of the bridge and the forward mast, gone. Some men and women jumped overboard at once, and we threw over rafts and seats to them. We then went to help get the women into the lifeboats and afterwards to help the wounded out of the débris. We saw at least 15 severely wounded and helped with 5 ourselves. Among these were Dr. Penfield and Miss Baldwin. Altogether 6 boats were launched. One of these capsized with its passengers. We suppose 25 or 30 people were lost in this boat. We helped lower 1 boat ourselves. Of the remaining 5 boats, 3 were filled with passengers and standing off about 100 yards. Of the other 2, 1 was nearly full of water and contained only 5 men. We did not see the sixth boat. We know of only 3 Americans who got into the lifeboats—Mr. and Mrs. Baldwin and Miss Baldwin. After 10 minutes of watching we decided that as the ship was apparently not sinking, we would stay with her. After the small boats had been standing by for an hour, they were hailed and the people brought back on board.

About dusk a sailing vessel 3 miles away, which had been standing by for some time, was signaled by rockets and waving of blankets. At least 30 exploding rockets with colored flares were sent up during the evening, but the ship continued her course and disappeared in the distance. The wireless remained intact, though the operator said it was very difficult to receive because the forward mast was gone and the an-

tennæ were loose. The boilers remained intact, as we could see the steam from the escape pipe, and the electric lights burned until we left the ship.

At 11.30 a French ship came up and took off the women and children and half the men, and Miss Baldwin, who was unconscious. Then four or five other boats came up and we, with the remaining passengers, were taken on a British ship. With us there were seven wounded—five men and two women. One man died on the way to England. Five dead were left on the hulk, but apparently no Americans among them. We arrived in England at 4.30 a. m., and the wounded were transferred to a nearby hospital ship.

The first officer (at least a commissioned officer) of the rescuing British ship told us that the captain of the *Sussex* reported to the captain of the British ship that he saw clearly the wake of a torpedo. He ported his helm hard and in a few seconds longer would have escaped it. No life belts were given to the passengers, and we found them with great difficulty after the explosion had taken place. In our opinion the explosion took place about 50 feet from the bow and apparently on the starboard side.

We solemnly swear that the above statement is true to the best of our knowledge and belief.

EDWARD H. HUXLEY.

FRANCIS E. DRAKE.

Subscribed and sworn to before me, this 25th day of March, 1916.

EUGENE C. SHOE-CRAFT,
Third Secretary of Embassy.

[Seal of the American Embassy.]

Affidavit of Edward Marshall.

AMERICAN EMBASSY,
London, March 26, 1916.

There is no doubt in my mind but that the vessel was torpedoed. I, myself, did not see the approach of the weapon, but I heard one of the higher officers of the *Sussex* say to a British naval passenger that he had seen it, and a quartermaster who was on the bridge with the captain

stated to a friend of mine who was in a small boat with him after the disaster that he, the captain, and others on the bridge saw the wake of the approaching torpedo and sheered the ship so that it might, if possible, escape.

There seems to be absolutely no support for the floating-mine theory and every possible support for the torpedo theory. Not long before the shock came we had passed floating wreckage, indicating the destruction of a vessel. From the deck of the *Sussex* this flotsam seemed to be baled tobacco, but that is a mere guess. Concerning the identity of the shattered ship which bore it I have been unable to learn anything. I was sitting in the smoking room when the shock came. The effect was extraordinary. The smoking room is small, containing four or five tables. I, at one of them, was very definitely jarred and was aware instantly that we had been blown up, but was not seriously shaken. At a table just aft of where I sat, not more than 6 or 7 feet distant, a heavy man was thrown high into the air, coming down head first upon the chair on which he had been sitting with force sufficient to break the chair.

Of course I hurried to the outer deck. The sun was shining brightly, the sea was very far from rough, being animated by nothing more than a gentle swell, but a strange, uncanny sound was in the air, vibrant, chilling. It was a moan from the ship's company. I heard no screams.

There was no mad panic. Some women became hysterical and some men lost their heads, but the reported scramble for the boats is not true. There was amazingly little excitement, but there was something quite as dreadful, which was the lack of training on the part of the crew. Capt. Mouffet was on the bridge.

The vessel was probably struck just aft of the bow. It may be that the shot was directed against her very cut-water. At any rate, between a third and a quarter of the ship was cut off as with a mighty knife. I reached the outer deck in time to see this severed portion of the vessel before it slowly, unsensationally sank.

Still there were no screams, but the curious moan, as of many people in slow pain, grew louder. Women kept their heads amazingly. Mrs. Dorothy W. Phillips Hilton, daughter-in-law of the late Judge Hilton, of New York, came up to me.

"I can't find my daughter," she exclaimed. I had seen her walking with a beautiful young girl of 22. I went with her about the deck to look for her, but we could not find her anywhere.

This search was made difficult by a curious cause. The explosion had

raised a mighty mass of water from the sea, which had blown backward on the ship. It completely missed the forward portion of the remaining deck space, leaving it quite dry, but it rushed along the space aft of amidships with the volume and force of a heavy sea, harming no one, I believe. But it made the deck intensely slippery, and as I am lame it complicated the search for the young American girl. I did not see Mrs. Hilton again for a long time. Then she came to me and told me that her daughter was not on the ship and that some one said she had gone off in one of the boats. It seemed wise, for the distracted mother's sake, to confirm this rumor, and I did so, although I had no ground for it.

The crowds about the boats had become dense immediately after the stunned pause which followed the explosion. From the very first I had not the slightest thought of trying to get into a small boat, and so of these proceedings I was only an interested and presently a horrified spectator. The captain on the bridge had been fully subject to the great shock of the explosion. Probably the concussion somewhat stunned him for a few moments, for the ship literally had been sheared away just forward of the bridge, so near to it, in fact, that the foremast had gone down. He was not panic-stricken, but like a man whose brain is dulled.

Subordinate officers were very competent, but immediately were confronted by an utterly unseamanlike crew wholly inefficient in such an emergency. Some of them began to work at the lines about the davits, from which the boats swung, but they worked incompetently. Passengers helped them incompetently. Still there was no panic.

But presently one of the boats touched water. Then there was a rush for it. This seemed to be infectious. Some men slid down the ropes into the tiny craft, some women jumped for it, some threw children into it. Presently it was overloaded and without much difficulty was cast off and floated free of the vessel. This was the first boat I saw to thus float free. It then seemed certain that the vessel presently would sink and I called to some one in the boat to get her to a distance, thinking that otherwise the suction of the drowning vessel might take her down with us. But no one heard me. The crowd within the boat was not behaving well. She was beginning to careen. I could not remove my fascinated gaze from her. Presently she capsized. I have no idea how many of her company were drowned. For a time they floated, struggling very briefly, for I am told the water was intensely cold. Then they began to perish, one by one, a few being picked up by other boats which had been lowered and drawn near. In the meantime gratings had been thrown

overboard in large numbers. I imagine that they had been designed for such emergency, but they were too narrow. More than once I saw one slowly turn as a struggler seized its edge. Usually the struggler did not again appear. Once or twice I saw a swimmer reach and climb upon one, only to be overset ere long by someone else. I saw only one person borne up efficiently by one. She lay back downwards, supine, arms and feet extended. I think she was unconscious as she floated astern. On one of these gratings a strange thing occurred. A young woman deliberately disrobed and then plunged into the sea.

On board, ere this, a curiously unexcited chaos had begun to reign. At the other boats there was a succession of heartbreaking scenes. Some women dropped their children into waiting arms and then jumped after them. Some men endeavored to slide down the ropes—a ticklish business, for the boat was rolling, and as often as not they presently hung between the small boat and ship. This meant that they must be crushed.

When I turned from these scenes to look again at the boat which had capsized, a man was seated on her upturned keel, holding a swimming woman's hand. Round about were floating bodies. If they were not dead, the chill had dulled them to unconsciousness.

Two of the boats got clear away, but came back to the *Sussex*, when their inmates saw that she still floated and that the small boats probably would not float long. One passed beyond my vision.

Meanwhile the wireless had been rerigged, some of its stays having been carried away by the explosion. It crackled out its S. O. S. The sky grew overcast. A sail appeared and rockets were sent up. The sail made not the slightest sign that those who governed it had seen us. Later I learned that it was that of a windjammer which had been helpless, as the breeze blew, to come to our assistance, but had picked up one of the boats.

A curious thing was visible alongside. It was as if hundreds of yards of white cloth had been unrolled and floated at a yard beneath the surface. I do not know what it was.

Two of the boats, seeing that the *Sussex* did not sink, returned and their occupants were taken aboard ship. There were many injured to look after. One woman had been torn about the abdomen incredibly and died on deck. A man had been driven from one of the dining tables through the forward end of the ship—which, it must be remembered, was quite open—and hung head downward, his legs entangled in immense

quantities of wire which had been brought from somewhere by the explosion.

Disagreeable affairs developed. Some of the crew appeared with champagne bottles in their pockets, and staggering. This did not become as serious as might have been the case, for the ship's officers took the liquor from them and cast it into the sea.

I went among the wounded. Their injuries were freakish. Both of one man's legs were twisted till his feet pointed backward. Another's face had been blown in by the explosion and presented an extraordinary spectacle. He was unconscious.

In the meantime, now and then, we went to the ship's rail but could not see that she was settling. The sea was rising. The windjammer was slowly disappearing. We were assured that help was coming, but ceased to take much stock in the reports, the general impression being that the wireless was not working properly. This was strengthened when, even before darkness fell, rockets were sent up from the bridge.

I went below, having done all that I could, and having fallen once or twice upon the slippery decks. There, in which I think must be the steerage of the ship, we huddled, shivering, some women sobbing, one or two, definitely crazed, shrieking constantly, a few children crying, by now weakly, and moans coming from the slightly injured.

Presently we saw a light. Then, after hours of what mounted to dull misery, a trawler drew alongside. The transfer of the wounded was attempted but was quite impossible, for the vessels bobbed about amazingly. Many passengers were pulled aboard the little rescue ship, however, and none was injured so far as I could learn. It was as obviously impossible for me to get aboard the trawler as it had been for me to attempt to get into a small boat, although some new-made friends came to me asking me to make the effort. Presently, having taken all that she could take, and nearly all the women and children, she drew off and the dull waiting recommenced.

It was ended by the appearance of a British destroyer. It pulled up alongside and made fast, although the rising seas now and then crashed it against the wreck's side viciously. I was among the last to be passed from one ship to the other.

The voyage in to Dover was a quick one. I made it in the quarters of the crew, as I could not make the climb down to the commander's cabin. There in the crew's quarters half a dozen wounded were in bunks and one doctor and some very able amateurs did what could be done for

them. One man died as I looked on, and the legs of another hung by mere shreds.

At Dover the wireless already had assembled an ambulance train of motor cars. Our landing was made by crossing a British hospital ship, at whose side, within the harbor, the destroyer moored, and on this hospital ship the living wounded were disposed in part, a few being taken to a hospital ashore. The ambulance train conveyed the balance of us to hotels. I, myself, was rather helpless by a fall or two upon the slippery decks of the disabled ship while I had been endeavoring to help the wounded.

Among the Americans injured moved from the hospital ship to the Western Heights Hospital, at Dover, in the morning was George H. Crocker, 22 years old, of Fitchburg, Mass. He suffered a concussion of the brain at the time of the explosion and remained unconscious up to the time I took the train for London. He was on his way to join the American ambulance at Paris. His cousin, Charles Thomas Crocker, also of Fitchburg, was looking after him.

These young men were standing near the bow of the *Sussex* when the explosion occurred. M. J. E. Baldwin, his wife, Elizabeth S., and their daughter Helen were standing near them. They were on their way to their home in Paris.

Tinglewoods Culbertson and Daniel Sargent, respectively 29 and 25, also going to join the American ambulance, were among those taken from the *Sussex* by the French trawler. One American woman, Mrs. Edna S. Harde, helped everyone despite her own worry.

Among those injured was Wilder Cradee Pendleton, of Wisconsin, a medical student. One of his legs was broken. He was going to France on a vacation from the medical school at Oxford.

The dead were left on board the *Sussex*. Of these I saw the purser, who was found covered with the wire which I have mentioned as among the ship's light cargo. Four other men, to me unknown, lay on the upper deck. The young girl with the splendid ruby still lay where she died. Another woman lay dead in the women's room, and there was the dead man swinging head down from the wreckage at the bow.

These were all the dead I saw aboard ship; but there were those swirling, ghastly figures in the sea, turning, twisting, apparently never sinking to invisible depths.

It would be difficult to describe the indignation which was felt by the American survivors. Down among the mail bags on the lower deck we

held a little indignation meeting while we waited for the rescue ships which few of us believed would reach us ere the rising seas should finish the torpedo's work. During the course of this extraordinary gathering I endeavored to take evidence as to whether we had been torpedoed or had struck a mine. All the testimony favored the torpedo theory. One of the seamen who was in the boat with Alfred Legresley, of the island of Jersey, which after drifting for some hours returned to the *Sussex*, told him that he could positively swear that he actually saw the torpedo as it came, saying that it was plainly visible 50 yards or so in front of its white fan-shaped wake. A woman passenger, whose name I did not get because she fainted, had made a similar statement to me before we left the *Sussex*. Further evidence that it was a torpedo and not a mine came to me after we had boarded the destroyer, where an officer informed me that a bit of the torpedo had been picked up on the *Sussex* not far from the grim place in which eight or nine sailors asleep in the fore-castle had been blown to bits with the compartment in which they rested.

It is impossible to speak with too much enthusiasm of the kindness of the officers and men of the destroyer. Their tenderness in handling the wounded, their gentle care for the few women who were taken aboard that vessel, the reverence with which they treated the two who died as we sped in toward Dover, their skill and willingness to risk their own lives and limbs during the transfer of the passengers from the disabled vessel to the little iron ship alongside all were notable. Nor must it be forgotten that her young commander risked his craft to help us. The sea was rising rapidly as he lay alongside and every now and then the vessels came together with a crash that shook them both and made great indentations in the destroyer's outer skin.

One little episode I must not forget. Perhaps it may be pleasing to those of devout religious faith. While things were at their worst aboard the *Sussex*, and I fear I have not indicated quite how bad they were for a long period, a small group of Italians gathered and remained quite calm, droning, as they waited for what we all knew very probably might be the end, an Ave Maria. Over and over, they intoned the chant, and so great was its restraining influence that these Latins, usually held to be the most excitable of peoples, were among the calmest of the troubled passengers.

Perhaps I may be forgiven if, at the end of this imperfect and incomplete account of this grimly fascinating experience, I mention some of the reflections which irresistibly affected the little knot of us who sat

on the mail bags below deck as the slow hours passed while we were waiting for assistance or the end. More women and children than men were gathered there, some of them injured, all of them shivering, many of them beginning to cough rackingly as the effect of wettings or exposure. Probably there were a score there who had been immersed in open sea and rescued in one way or another and very likely some of these will pay as high a price for this brief, tragic journey as those who were killed outright have already paid. I presume that save for the few ship's officers, who may or may not have been armed, as ship's officers may well be at all times, there was not an armed man on the vessel. Surely she was not a fighting ship. She did not even have a signal gun aboard.

As far as I could learn she carried no munitions nor anything which could be of comfort to the fighting men of France and England save the mails, which were to take them news from home.

Yet she had been torpedoed with all the ruthlessness and malevolence which would be excusable only if directed against an actual fighting ship. We, who talked this matter over, had seen women, had seen little children, sinking to their death in the cold sea or mangled to their death on board by the explosion. Not one of us bore any more relationship to the great war than mine, which, to this time, has been merely that of a recorder of opinion.

The maddest enemy mind could not attach to the poor little old ship *Sussex* any military importance whatsoever; any normally humane mind would have stayed a tempted hand at thought of the entirely innocent character of her burden.

Yet, without an instant's warning, the torpedo had been launched at us. That it had failed to send the last soul on the vessel to eternity had been the merest freak of inconceivable good fortune. The little meeting was not pleasantly disposed toward German methods. Had a German been on board and had the nature of his blood been learned by chance last night, as we swung, slowly settling toward what certainly was probable destruction, I am sure he would have fared ill.

The above statement is true to the best of my knowledge and belief.

EDWARD MARSHALL.

Subscribed and sworn to before me this twenty-sixth day of March, 1916.

EUGENE C. SHOECRRAFT,
Third Secretary of Embassy.

[Seal of the American Embassy.]

Deposition of André Paul Danger, second engineer of steamship "Sussex."

[Translation.]

FRENCH REPUBLIC,
MINISTRY OF FOREIGN AFFAIRS,
Boulogne, March 26, 1916.

DEPOSITION OF THE OFFICER MECHANIC DANGER, ANDRÉ PAUL,
OFFICER MECHANIC OF MERCHANT SERVICE, REGISTERED AT
DIEPPE UNDER NO. 75.

This day, the 26th of March, 1916, before us, Demoliere, Administrator of the Maritime Inscription at Boulogne-on-sea, appeared the Officer Mechanic, André Paul Danger, No. 75, who embarked on board the *Sussex* in the capacity of second engineer, who made to us the following declarations, after having sworn to tell the entire truth:

"I was on duty in the engine room for the crossing between Folkestone and Dieppe. I was at my post beside the control of the two engines. At 2.50, about, I received a telegraphic order to stop the starboard engine. We were at that moment making 175 revolutions, which correspond to a speed of 15/17 knots.

"As soon as I received the order to stop the starboard engine I stopped it immediately; the port engine continued to turn at 175 revolutions."

Q. How much time elapsed between the moment when you stopped your starboard engine and the moment of the explosion?—A. "Three to four seconds elapsed between the moment that I stopped the starboard engine and the moment of the explosion.

"Almost instantly after signaling 'stop starboard' the telegraph signaled 'starboard full speed astern.' In execution of this order directly after stopping the starboard engine I reversed to give full speed astern.

"The operation of reversing can be done very rapidly in about one second and a half, because of the change speed 'Brown' with combined pistons (steam and hydraulic pistons). The vacuum in the condenser was normal, viz, 65 vacuum, about. With this vacuum the engine reversed immediately.

"The starboard engine had scarcely begun to go astern when the

explosion took place; the engine had scarcely time to make a few revolutions astern, which were probably without influence on the ship, because the screw could not have time to produce its effect upon the currents of water which the port engine was churning up in the opposite direction. After the shock took place the captain ordered me to stop both engines at once."

After reading this deposition and after we had asked him whether he had anything to add, the officer mechanic, Danger, signed it with us.

Done at Boulogne on the 26th of March, 1916.

DANGER,
The Officer Mechanic.

DEMOLIERE,
The Administrator of the Maritime Inscription.

Certified to be an exact copy.

For the President of the Council, Minister for Foreign Affairs, and by order the Minister Plenipotentiary Sub-Director.

JEAN GOUT.

[Foreign office seal.]

*Affidavit of Mark Baldwin.*¹

[Translation.]

DECLARATION OF MR. MARK BALDWIN, AMERICAN CITIZEN, SHIPWRECKED
ON THE STEAMER "SUSSEX."

FRENCH REPUBLIC,
MINISTRY OF FOREIGN AFFAIRS.

In the year 1916, the 26th of March, at 17 o'clock, we, Georges Jean Valleins, special commissary of the railway police, living at Boulogne sur mer, judiciary police officer, assistant of the procuror of the Republic, accompanied by Mr. Sivadon, special assistant commissary, proceeded to the Hotel Sussex, at Wimereux, where, in the presence of Mr. Certeux, sous prefet of Boulogne sur mer, we heard Mr. Mark Baldwin, corresponding member of the Institut de France, aged 55 years, domiciled in Baltimore, 118 West Franklin Street, American citi-

¹ Copy received from the French Ministry of Foreign Affairs by Ambassador Sharp and transmitted with his dispatch No. 3123.

zen in residence at Paris, 11 bis Bd Delassert, who, after having taken an oath to tell the truth, nothing but the truth, and the whole truth, made to us the following declaration:

Accompanied by Mrs. and Miss Baldwin we embarked, on the 24th of March, on board the *Sussex*, at Folkestone, our destination being Paris.

We left after noticing that there were on board other Americans, amongst whom two young men traveling for the American Ambulance in Paris.

We were seated in the stern beside the heavy baggages, and after taking our lunch on board my wife and I were seated there. My daughter was with the two young Americans of whom I have spoken close to the captain's cabin.

Suddenly there was a shock, followed by an explosion. The shock and the explosion were distinctly separate.

A great quantity of debris and a wave of water were thrown upon the ship. There was great confusion.

Before the explosion my wife and I, who were in the stern, had seen nothing. We looked for the life belts in the saloon, and I helped my wife to get into a small boat with other women. Then I ran to search for my daughter. I looked all over the front part of the steamer, but she was not there. The place where she had been standing with the two young men had disappeared. Not finding my daughter, I returned to my wife at the place where I had left her. She was on the deck, the sailors having made all the people who were in the boat get out.

I looked for another boat in which my wife and several other ladies had been taken by three or four gentlemen. When the boat was full, I went back to look for my daughter. I did not find her and I supposed that she left in another boat. I jumped into the boat where my wife was, sliding down the ropes, when to my surprise there I found my daughter stretched out, almost dead.

We remained in this boat until sunset; five other boats, I believe, were like ours, overcrowded. After a discussion we decided to remain near the *Sussex*; a single boat drew away until we lost sight of it.

I saw many people in the water. We were in the second boat, from which the passengers clambered aboard the *Sussex* with the authorization of the captain. The sea was a little rougher, and the operation was difficult, especially for my daughter, who was still unconscious. We were on the lower deck, where we remained with many others until after eleven

o'clock, when it was announced that a ship was close to us with facilities for disembarking. Women were taken first; my wife and my daughter were the last, because it was difficult to transport my daughter. After the women, a number of men were embarked on the *Marie-Thérèse* until she was full. I was of the number.

I noticed that a good many remained behind on the *Sussex*. A bed was found for my daughter, and the crew of the boat treated us admirably. They made coffee for us, and after three-fourths of an hour we arrived at Boulogne. We were the last to leave the ship, because an ambulance had been ordered for my daughter, and all three of us were transported to the General Hospital No. 14, at Wimereux.

I do not know what became of the two young men with whom my daughter was talking. They were Mr. Crocker, of Boston, a Harvard student, coming over as military driver in the American Ambulance at Paris, and Mr. Penfield, a student at the University of Oxford.

My daughter on her arrival at the hospital was in a condition of physical prostration and mental confusion, doubtless provoked by a blow on the skull. Her right side is for the moment paralyzed. Up to the present her condition remained about the same, but this afternoon she showed better symptoms.

Affidavit of Wilder G. Penfield.

WESTERN HEIGHTS MILITARY HOSPITAL,
Dover, March 27, 1916.

I was leaning on the forward rail, as far in the bow as possible, talking to Miss Baldwin and George Crocker. A few minutes before the explosion, Mr. Baldwin was also talking to us. Whether he had left us or not, I do not know. We were looking at some sea gulls, forward and a little to the starboard. The explosion sounded like a huge rending of boards and occurred about 3 o'clock. I felt no unusual movement of the ship before the explosion. My only sensation was one of falling amid flying boards. I was conscious the entire time. I lifted a few boards off of me and crawled to the deck.

I then looked for Miss Baldwin and George Crocker. I found the latter immediately in front of the closed cabin; I dragged him to the deck. He was badly entangled in small wire coils. These latter were

everywhere in the wreckage—small steel wire coils—about 6 inches in diameter. Under Crocker was a young woman whom I thought was Miss Baldwin. I carried her to the deck, turned her over—and believed her not to be Miss Baldwin. The woman was then dead or died soon afterwards. She had on a green coat edged with brown or dark fur and she had dark hair.

I saw a man, almost over the water, hanging by his feet. I said to myself, "There's Mr. Baldwin." The man had iron gray hair, and as it was impossible to reach him, I suppose he slid into the water afterwards.

I noticed no change of motion of the boat just previous to the explosion. I did not see a mine or torpedo, although I was looking out on the water at the time, to a spot about 200 yards distant. A torpedo, however, might have come directly from the left or right without my seeing it.

The above statement is true to the best of my knowledge and belief.

WILDER G. PENFIELD.

Sworn to and attested before me, this 27th day of March, 1916.

EUGENE C. SHOECRAFT,
Third Secretary of Embassy.

[Seal of the American Embassy.]

Report of Auguste Mouffet, captain of steamship "Sussex."

[Translation.]

THE CAPTAIN OF STEAMSHIP "SUSSEX," AUGUSTE MOUFFET, TO MR.
GUERIN, COMMANDER OF THE FLEET AT DIEPPE.

I, the undersigned, Auguste Mouffet, captain of the steamer *Sussex*, of the Compagnie des Chemins der Fer de l'Etat, declare that I left Folkestone for Dieppe, with 325 passengers, 53 men in crew, mail for India and the baggage of the passengers, at 1.25 p. m. the 24th of March, 1916. Course, true S. 36° W. passing 1 mile off Dungeness, at 2 p. m. I am running east, west of that light. Headed true S. 3° W. about 2.50

p. m. I am 13 miles off Dungeness, longitude—, latitude—, I espy the wake of a torpedo at about 150 meters on the port side. I immediately order helm 30° to starboard in order to bring her about quicker and stop starboard engine which was done at once. In spite of all my efforts I was unable to avoid the torpedo which struck the bow of the *Sussex* at the foremast, producing a formidable explosion tearing off the entire bow as far as the first water tight bulkhead.

After having found that the boat was in a critical position and in order to save human life, I gave the order to lower the lifeboats and rafts. This was done quietly and coolly by the crew. I also gave orders for the wireless operator to send signal according to instructions No. 87 of July 10, 1915. In spite of all my precautions the lifeboats were overloaded by the passengers, who, seized with a momentary panic, jumped into the boats and caused two of them to capsize; a part of their contents was thrown into the sea and disappeared.

It is to be regretted that in these terrible circumstances I have to mourn the death of several members of the crew and of passengers, the number of whom I can not state even approximately, all the less as a part of the passengers and crew were picked up by the mobilized trawler *Marie Thérèse* at 10.40 p. m., and the other part, including the wounded, were taken on board an English torpedo boat at midnight. Toward 1 a. m. of the 25th an English destroyer, seeing that it was impossible to make headway with my own engines reversed, took me in tow and towed me for about 45 minutes; the hawser having parted, the destroyer then went in search of a tug-boat, which towed me for about 1 hour and 30 minutes, when a second one came to help the first, and they towed me into Boulogne-sur-mer with the tide, about 2 p. m. of the 25th. The ship is moored to the wharf in the smaller harbor; the bodies of the passengers killed by the explosion, baggage, and mail were removed.

I have to bring to the notice of the higher authority the devotion, initiative, and coolness of my crew, and above all of Messrs. Rondeau, second mate; Delabarre, second engineer; Danger, second engineer; Gosselin, third engineer; Lesne, boatswain; who never ceased to prevent a panic and to encourage the passengers.

Such is my report, that I swear to be sincere and true in all its contents, reserving to myself the right to supplement it if need be.

Read and signed by the leading members of the crew.

The captain:

A. MOUFFET.

Deposition of Gertrude Lehman Barnes.

AMERICAN EMBASSY,
Paris, March 27, 1916.

The witness, after being duly sworn, testified as follows:

1. Q. What is your name?—A. My name is Gertrude Lehman Barnes.
2. Q. Where and when were you born?—A. I was born at Buffalo, N. Y., on February 9, 1873.
3. Q. Where is your present home in the United States?—A. My home is at 128 West Eleventh Street, New York City.
4. Q. What was the citizenship of your father?—A. American, native.
5. Q. What is your occupation?—A. Buyer.
6. Q. Were you a passenger on board the steamship *Sussex* leaving Folkestone for Dieppe on the 24th instant?—A. I was.
7. Q. Did the *Sussex* show a flag?—A. Not that I know of for I went direct into a cabin.
8. Q. Where were you standing when the explosion occurred?—A. I was in a private cabin on the upper deck and was asleep at the time.
9. Q. Did you see any trace of a submarine?—A. I saw no trace of a submarine.
10. Q. Did you see the track of a torpedo?—A. I did not see any track of a torpedo, being in my cabin at the time of the explosion.
11. Q. What in your opinion caused the explosion?—A. I do not know; I can only speak from hearsay.
12. Q. Was the *Sussex* armed?—A. I did not see any guns.
13. Q. Were the passengers warned to put on life belts?—A. No; they were not.
14. Q. In what condition were the life belts?—A. They were in a very poor condition indeed; the straps were rotten. As soon as I tried to tie the strap, it broke off.
15. Q. Were the lifeboats lowered by the crew?—A. No; not that I saw; the only ones I saw lowered were handled by the passengers.
16. Q. Did they seem adequate to accommodate all passengers?—A. No; there were only six lifeboats, and every one seemed leaky.
17. Q. Was the vessel equipped with wireless?—A. Yes; it was.
18. Q. Do you know of your personal knowledge of any Americans having been killed by the explosion or drowned as a result of it—if so, who?—A. No; I do not know of any.
19. Q. At what hour did the explosion take place and how far was the

vessel from the shore at the time?—A. The explosion took place, I believe, at about 3 o'clock. I do not know how far we were from shore, but as soon as it got a little dark we saw the light of a lighthouse.

20. Q. Were there any other craft near the *Sussex* at the time she was struck?—A. No; not that I saw.

21. Q. Did you see any dead bodies lying on the deck, and if so, how many?—A. I saw people I supposed were dead, I did not stop to examine them, but I saw two men and one woman who seemed to be dead, though I can not be sure.

22. Q. Did you notice any persons drowning?—A. Yes; but I walked away to the other side of the ship, as the sight was so dreadful, and not to see them go down. I saw two lifeboats capsize and all the people struggling in the water; one woman and a little boy seemed on the point of going down just as I turned away.

23. Q. You remained on the steamer?—A. Yes; until we were taken off the *Sussex* by the *Marie-Thérèse* and taken to Boulogne.

GERTRUDE LEHMAN BARNES.

Subscribed and sworn to before me,

ROBT. W. BLISS,
*The Secretary of the Embassy
of the United States of America,
at Paris, this 27th day of March, 1916.*

[Seal of the American Embassy.]

Deposition of Samuel Flagg Bemis.

AMERICAN EMBASSY,
Paris, March 27, 1916.

The witness, after being duly sworn, testified as follows:

1. Q. What is your name?—A. My name is Samuel Flagg Bemis.
2. Q. Where and when were you born?—A. At Worcester, Mass., October 20, 1891.
3. Q. Where is your present home in the United States?—A. At Medford, Mass.
4. Q. What was the citizenship of your father?—A. American, native.
5. Q. What is your occupation?—A. I am a student, as travelling fellow of Harvard University.

6. Q. Were you a passenger on board the steamship *Sussex* leaving Folkestone for Dieppe on the 24th instant?—A. Yes.

7. Q. Did the *Sussex* show a flag?—A. It was flying a French flag at Folkestone; at the time the explosion occurred it was flying no flag; I distinctly noticed this because I had observed a few minutes before that the flag had been taken down. I speak of the flag at the stern of the ship.

8. Q. Where were you standing when the explosion occurred?—A. I was standing on the second-class deck, near the stern.

9. Q. Did you see any trace of a submarine?—A. I saw no submarine.

10. Q. Did you see the track of a torpedo?—A. I distinctly saw a white streak in the water, which was unmistakable; I observed this a few seconds before the explosion occurred, because my attention was called to it by the exclamation of the man at my side, who shouted, "What's that * * * ." The streak was on the left-hand side of the ship; as far as I can estimate, it extended out from the ship for about 200 yards, but before my eyes were able to follow fully the length of the trail, and at the same time realizing the significance of what that trail meant, my attention was drawn away from it, and the explosion occurred almost immediately afterwards. The trail, however, was unmistakable.

11. Q. What, in your opinion, caused the explosion?—A. The torpedo. In saying this I say so as a man who knows nothing at all about marine matters. It seems to me that the trail was unmistakable. I observed it a few seconds, just how many I can not say, but a very few seconds before the explosion occurred, and the fact that my attention was called to the trail, that I realized that it was probably a torpedo from the appearance of the wake in the water, is what convinces me that it was a torpedo.

12. Q. Did you see a periscope?—A. No.

13. Q. Was the *Sussex* armed?—A. I can not answer as to that; I did not see any evidence of her being armed.

14. Q. Were the passengers warned to put on life belts?—A. Not to my knowledge.

15. Q. In what condition were the life belts?—A. In very poor condition, from what I saw at the time I went below for a life belt in one of the lockers in the second-class cabin. I found none in the lockers, but I found three in a corner, and these three were in a very poor condition. I attempted to attach one to myself, but the tapes fell apart and the material of which the tapes were made was rotten. However, I took parts

of one on deck, and there, with a pocket knife, I succeeded in getting a piece of light rope from a pile on deck, and with this attached the imperfect life belt about my chest.

16. Q. Were the lifeboats lowered by the crew?—A. I saw none lowered by the crew, but I can not answer as to whether they were lowered by the crew or not; I suppose that the one which I got into eventually and in which I was a few seconds was lowered by the crew since previously another young American and I had tried to lower it, but did not succeed, as we could not manage the ropes.

17. Q. Did they seem adequate to accommodate all passengers?—A. By no means.

18. Q. Was the vessel equipped with wireless?—A. I saw a mast with wires which appeared to me to be similar to those I had observed on other vessels; I take it that this was a wireless.

19. Q. At what hour did the explosion take place and how far was the vessel from shore at the time?—A. I can not answer precisely as to the hour, because I did not look at my watch, but as nearly as I can estimate the time which passed since we left Folkestone it was about 3 o'clock; I can not say just how far the vessel was from shore, but there was no land in sight.

20. Q. Do you know of your personal knowledge of any Americans having been killed by the explosion or drowned as a result of it; if so, who?—A. No; not to my personal knowledge. When I got on the boat I knew none of the Americans on board, since I was traveling absolutely alone. I was told by Americans whom I met after the accident that several Americans had been killed.

21. Q. Were there any other craft near the *Sussex* at the time she was struck?—A. I did not see any myself and I believe that there was no vessel in sight.

22. Q. Did you see any dead bodies lying on the deck; and if so, how many?—A. After I returned to the *Sussex*, after having been picked up from a life raft, I saw several bodies lying on the deck, but it seemed that nobody was allowed to go up to the front part of the deck, and I was asked by somebody not to go there, and hence refrained, but I saw several bodies lying on the deck; one moved his leg a little.

23. Q. Did you notice any persons drowning?—A. I saw one man immediately after the explosion, who apparently had been blown into the sea, though I can not say for sure whether he was blown in the sea; he had grasped the log line of the boat and was hanging on there, his

face covered with blood. Immediately after I looked again, perhaps one or two minutes after; he was no more to be seen. While I was on the life raft I saw several persons about me struggling in the water; I did not count them exactly; I was not able to help anyone; they were all too far away from me, and I was busy caring for myself. There were quite a dozen around me; not within reach, however. After I had been in the water for an hour or so most of these people seemed to have disappeared. There were a few, five or six, who had floated out near me on life rafts. Also, before I left the ship, I observed on the starboard side a man struggling in the water, grasping a rope which hung over the steamer.

24. Q. Did you see the effect that was produced by the explosion on the steamer itself? And if so, describe what you saw.—A. The first effect I saw was a huge mass, evidently the front of the ship, which swept by the stern a few seconds after the explosion; the next I saw of the effect of the explosion was from a raft on the sea as I gradually drifted away from the boat, from which I could clearly see that the whole bow of the ship had disappeared. The final sight I had of the effect of the explosion was not so clear; this was when I was leaving on the French vessel, which took us off; we went by very quickly the bow of the ship and I could see in the faint light of the ship's lanterns the same thing, viz: That the bow was entirely torn off.

25. Q. Did you see whether there were any plates of the vessel that were bent outward or inward in the forepart when the explosion occurred?—A. I can not answer that.

In saying that I am not familiar with marine matters I mean to say that I have no more knowledge than the average layman, but I do not wish to cast the inference that because of the lack of greater knowledge in this matter I might be mistaken as to the torpedo. The track in the water, to my mind, was unmistakable. I do not see how it could have been made by anything else than a torpedo fired from some distance.

SAMUEL F. BEMIS.

Subscribed and sworn to before me,

ROBT. W. BLISS,
*Secretary of the Embassy of the
United States of America, at Paris,
this 27th day of March, 1916.*

[Seal of the American Embassy.]

Deposition of Tingle Woods Culbertson.

AMERICAN EMBASSY,
Paris, March 27, 1916.

The witness, after being duly sworn, testified as follows:

1. Q. What is your name?—A. Tingle Woods Culbertson.
2. Q. Where and when were you born?—A. At Wheeling, W. Va., on January 15, 1887.
3. Q. Where is your present home in the United States?—A. At Sewickley, Pa.
4. Q. What was the citizenship of your father?—A. American, native.
5. Q. What is your occupation?—A. Steel business.
6. Q. Were you a passenger on board the steamship *Sussex* leaving Folkestone for Dieppe on the 25th instant?—A. Yes.
7. Q. Did the *Sussex* show a flag?—A. Yes; I noticed that it was flying a French flag when we set sail.
8. Q. Where were you standing when the explosion occurred?—A. I was standing at the railing that separates the first from the second class, near the middle of the boat, on the side opposite the one on which the boat was struck.
9. Q. Did you see any trace of a submarine?—A. None whatever.
10. Q. Did you see the track of a torpedo?—A. No.
11. Q. Were you in a position where you could have seen the track of the torpedo?—A. No, because the torpedo struck on the forward port side, and I was looking toward the stern, standing on the starboard side.
12. Q. What in your opinion caused the explosion?—A. I do not know.
13. Q. Was the *Sussex* armed?—A. There were no arms visible from the deck, and I did not examine the boat thoroughly.
14. Q. Were the passengers warned to put on life belts?—A. So far as I know, there was no warning either before or after the explosion.
15. Q. Were the life belts in a position where they could be easily obtained?—A. There was one row hanging around the exterior rail of the boat, and there were others in chests which the sailors took out and threw on deck.
16. Q. In what condition were the life belts?—A. In very good condition.

17. Q. Did you not notice anything wrong in the belt which you put on?—A. No, I did not. I also noticed that the crew and all the passengers wore belts, which were in very good condition, while on board.

18. Q. Were the lifeboats lowered by the crew?—A. One I am sure was not manned by the crew, and how it was lowered I can not say. The other boat, which was lowered on the other side, may have been manned by the crew, but I do not know how it was lowered. These two boats of which I have just spoken were large. I observed two other smaller boats, one of which capsized almost immediately on reaching the water, the other of which gradually filled with water. As far as I know, the occupants of these two smaller boats were mostly saved. The occupants of the two larger boats were rowed about for some time, and later returned on board the *Sussex*.

19. Q. Did the lifeboats seem adequate to accommodate all passengers?—A. No; because when all the boats had been put out there were between 100 and 150 people left on board the *Sussex*.

20. Q. Was the vessel equipped with wireless?—A. Yes, before the explosion, but afterwards the forward mast which bore the antennæ was blown completely overboard, thus damaging the wireless to such an extent as to limit the transmission of messages to a very small radius, although it was still possible to receive messages from a much greater distance.

21. Q. Do you know of your personal knowledge of any Americans having been killed by the explosion or drowned as a result of it? If so, who?—A. Yes; I saw a girl lying dead on deck who was pointed out to me as being Miss Baldwin.

22. Q. At what hour did the explosion take place and how far was the vessel from shore at the time?—A. Shortly after 3 p. m., roughly speaking, we were about mid-channel when the explosion took place. We were so informed by the crew of the submarine destroyer which came to our rescue later on. Shortly after dark I saw the light from a lighthouse.

23. Q. Were there any other craft near the *Sussex* at the time she was struck?—A. No; not at the time she was struck, but about an hour afterwards we saw a sailboat very far off to starboard; it was hard to tell whether it even noticed us. Toward dark a small sailboat seen from the rear seemed to be coming our way, but turned and sailed off in the opposite direction.

24. Q. Did you see any dead bodies lying on the deck; and if so, how many?—A. The one I have mentioned, which was pointed out to me as being Miss Baldwin.

25. Q. Did you notice any persons drowning?—A. No; I saw some in the water, but later saw them rescued.

26. Q. You remained on the steamer?—A. Yes; I remained on the steamer until the time when I was taken off with many others by the *Marie-Thérèse* to Boulogne.

T. W. CULBERTSON.

Subscribed and sworn to before me,

HENRY R. CAREY,
*Third Secretary of the Embassy
of the United States of America, at Paris,
this 27th day of March, 1916.*

[Seal of the American Embassy.]

Deposition of Calliope A. Fennell.

AMERICAN EMBASSY,
Paris, March 27, 1916.

The witness, after being duly sworn, testified as follows:

1. Q. What is your name?—A. Mrs. Calliope A. Fennell.
2. Q. Where is your residence?—A. Majestic Hotel, New York.
3. Q. What is your nationality?—A. American by marriage.
4. Q. Where and when were you born?—A. Ithaca, Greece, 15th May, 1875.
5. Q. What is your occupation?—A. —.
6. Q. Were you a passenger on board the steamship *Sussex* leaving Folkestone for Dieppe on the 25th instant?—A. Yes, I was.
7. Q. Did the *Sussex* show a flag, and if so, what flag?—A. I did not notice any flag.
8. Q. Where were you standing when the explosion occurred?—A. I was sitting near the bow, in front of the smoking room, my back turned to the bow, on the right side of the ship.
9. Q. Did you see any trace of a submarine?—A. I saw no trace of a submarine.

10. Q. Did you see the track of a torpedo?—A. I saw no track of a torpedo.

11. Q. If so, from what side of the boat did it seem to come?—A. —

12. Q. What, in your opinion, caused the explosion?—A. I thought the explosion might be caused by a mine.

13. Q. Was the *Sussex* armed?—A. I did not notice that the *Sussex* carried any armament.

14. Q. Were the passengers warned to put on life belts?—A. They were not.

15. Q. In what condition were the life belts?—A. They were in bad condition; there were no straps on the one I had.

16. Q. Were the lifeboats lowered by the crew?—A. They were not lowered by the crew—I did not see any one of the crew or the officers at the time; one boat capsized which was full of passengers.

17. Q. Did they seem adequate to accommodate all passengers?—A. There were only 4 boats for 380 passengers.

18. Q. Was the vessel equipped with wireless?—A. I saw no wireless apparatus, but think there was one.

19. Q. Do you know of your personal knowledge of any American having been killed by the explosion or drowned as a result of it—if so, who?—A. I do not know.

20. Q. At what hour did the explosion take place and how far was the vessel from shore at the time?—A. Half past 2; we were still very near Folkestone, although we did not see the land.

21. Q. Were there any other craft near the *Sussex* at the time she was struck?—A. Nothing all around but a sailing boat which seemed to approach, then went away.

22. Q. Did you see any dead bodies lying on the deck—and if so, how many?—A. I saw three prostrate bodies on one side of the boat then, two more on the other side—these last two were covered when we returned to the boat which we had left for a few hours.

23. Q. Did you notice any persons drowning?—A. I saw several people drowning—one woman who was picked up in my boat died afterwards.

Have you any remarks to make?

Remarks: Yes, I wish to say it is extraordinary that there were not more lifeboats—that belts were not in a better condition—and that there was nobody to say what to do. We were in the boat wondering

what to do, and when we approached the ship the captain simply said to keep far from it.

One boat was sent to the nearest lighthouse to call for help.

CALLIOPE A. FENNELL.

Subscribed and sworn to before me,

ARTHUR HUGH FRAZIER,
*Second Secretary of the Embassy
of the United States of America
at Paris this 27th March, 1916.*

[Seal of the American Embassy.]

Deposition of Daniel Sargent.

AMERICAN EMBASSY,
Paris, March 27, 1916.

The witness, after being duly sworn, testified as follows:

1. Q. What is your name?—A. Daniel Sargent.
2. Q. Where and when were you born?—A. I was born at Wareham, Mass., August 22, 1890.
3. Q. Where is your present home in the United States?—A. Wellesley, Mass.
4. Q. What was the citizenship of your father?—A. American, native.
5. Q. What is your occupation?—A. I am a teacher.
6. Q. Were you a passenger on board the steamship *Sussex*, leaving Folkestone for Dieppe on the 24th instant?—A. I was.
7. Q. Did the *Sussex* show a flag?—A. I never noticed the flag.
8. Q. Where were you standing when the explosion occurred?—A. I was in the stern, just where the second-class passengers are railed off from the first. I was in the first-class part of the stern.
9. Q. Did you see any trace of a submarine?—A. I saw no trace of any.
10. Q. Did you see the track of a torpedo?—A. I was looking toward the stern and could not have seen it.
11. Q. What, in your opinion, caused the explosion?—A. I could not really tell.
12. Q. Was the *Sussex* armed?—A. No; it was not armed.
13. Q. Were the passengers warned to put on life belts?—A. No.
14. Q. In what condition were the life belts?—A. They seemed very old and soggy and I never knew if they could support anyone. There

were some new life belts in a chest, but most of them were hanging round the side of the ship on rails; there was no sign telling where they were. Some of the life belts were without any strap.

15. Q. Were the lifeboats lowered by the crew?—A. No.

16. Q. Did they seem adequate to accommodate all passengers?—A. No.

17. Q. Was the vessel equipped with wireless?—A. Yes; until the explosion came; it was then destroyed when the mast went down. I was told by an English newspaper man that they could receive messages but not send any out. The captain gave out that they were receiving messages.

18. Q. Do you know of your personal knowledge of any Americans having been killed by the explosion or drowned as a result of it? If so, who?—A. Only by disappearance; I did not see a dead American. Miss Baldwin I saw within a minute of the explosion; afterwards I could find no trace of her. I saw most of the wounded but did not happen to see her; she was blown up on the captain's bridge but I did not see her there.

19. Q. At what hour did the explosion take place and how far was the vessel from shore at the time?—A. I should think that the explosion took place about 5 minutes after 3. No shore was visible at the time.

20. Q. Were there any other craft near the *Sussex* at the time she was struck?—A. There were several sailing craft on the horizon.

21. Q. Did you see any dead bodies lying on the deck; and if so, how many?—A. I saw several bodies that seemed to be dead; I would not have known if they were quite dead or not.

22. Q. Did you notice any persons drowning?—A. I did not see a single person actually go down. I saw people float out and disappear and never come back, but not actually go down.

The boat seemed to have been struck on the left by something that passed through it to the right, for on that side the sheeting of the boat was entirely turned round almost like a horseshoe as though it had been forced back. The boat did not rise up in the air when it was struck.

DANIEL SARGENT.

Subscribed and sworn to before me,

ROBT. W. BLISS,
*Secretary of the Embassy of the
United States of America, at Paris,*
this 27th day of March, 1916.

[Seal of the American Embassy.]

Deposition of Gertrude Wenzlick Warren.

AMERICAN EMBASSY,
Paris, March 27, 1916.

The witness, after being duly sworn, testified as follows:

1. Q. What is your name?—A. Gertrude Wenzlick Warren.
2. Q. Where is your residence?—A. St. Louis, Mo.
3. Q. What is your nationality?—A. American.
4. Q. Where and when were you born?—A. St. Louis, September 13, 1887.
5. Q. What is your occupation?—A. None.
6. Q. Were you a passenger on board the steamship *Sussex* leaving Folkestone for Dieppe on the 25th instant?—A. I was.
7. Q. Did the *Sussex* show a flag; and, if so, what flag?—A. I did not notice a flag.
8. Q. Where were you standing when the explosion occurred?—A. Between first and second class—aft.
9. Q. Did you see any trace of a submarine?—A. I did not see a submarine.
10. Q. Did you see the track of a torpedo?—A. Yes; I was looking out over the water, which I had seldom seen so calm and such a deep blue; I suddenly saw a white streak approaching the ship with a kind of wiggling movement; I am no judge of distances, but I am sure it was at least the length of the ship. I exclaimed to myself, "torpedo," and I am told that I said, "There it is," simultaneously with the explosion.
11. Q. If so, from what side of the boat did it seem to come?—A. From the left side.
12. Q. What, in your opinion, caused the explosion?—A. The torpedo.
13. Q. Was the *Sussex* armed?—A. I did not see any sign of guns.
14. Q. Were the passengers warned to put on life belts?—A. No; they were not.
15. Q. In what condition were the life belts?—A. In bad condition.
16. Q. Were the lifeboats lowered by the crew?—A. No; they were lowered by the passengers.
17. Q. Did they seem adequate to accommodate all passengers?—A. No; there were only 6 lifeboats.
18. Q. Was the vessel equipped with wireless?—A. Yes; it was.
19. Q. Do you know, of your personal knowledge, of any American

having been killed by the explosion or drowned as a result of it—if so, who?—A. No; I did not.

20. Q. At what hour did the explosion take place and how far was the vessel from shore at the time?—A. About 3 o'clock; I do not know how far, but no land was in sight.

21. Q. Were there any other craft near the *Sussex* at the time she was struck?—A. No.

22. Q. Did you see any bodies lying on the deck, and if so, how many?—A. I saw three people prostrate on the deck, but I can not say whether they were dead or only wounded.

23. Q. Did you notice any persons drowning?—A. I saw one person who went down.

GERTRUDE WENZLICK WARREN.

Subscribed and sworn to before me,

ARTHUR HUGH FRAZIER,
*Second Secretary of the Embassy
 of the United States of America, at Paris,
 this 27th day of March, 1916.*

[Seal of the American Embassy.]

Deposition of Edward Harold Williams-Ashman.

AMERICAN EMBASSY,
Paris, March 27, 1916.

The witness, after being duly sworn, testified as follows:

1. Q. What is your name?—A. Edward Harold Williams-Ashman.
2. Q. Where is your residence?—A. 68 rue de la Tour, Paris.
3. Q. What is your nationality?—A. I am a British subject.
4. Q. Where and when were you born?—A. In Detroit, Mich.; on September 30, 1885.
5. Q. What is your occupation?—A. Clergyman.
6. Q. Were you a passenger on board the steamship *Sussex* leaving Folkestone for Dieppe on the 25th instant?—A. Yes; I was.
7. Q. Did the *Sussex* show a flag, and if so, what flag?—A. French flag.
8. Q. Where were you standing when the explosion occurred?—A. I was sitting midship on the starboard side of the ship facing the sea.

9. Q. Did you see any trace of a submarine?—A. No trace of a submarine.

10. Q. Did you see the track of a torpedo?—A. No track of a torpedo.

11. Q. If so, from what side of the boat did it seem to come?—A.

12. Q. What in your opinion caused the explosion?—A. Something seemed to strike the side on which I was sitting; my chair swung round.

13. Q. Was the *Sussex* armed?—A. I saw nothing leading me to believe it was.

14. Q. Were the passengers warned to put on life belts?—A. I was not. I do not know if other people were.

15. Q. In what condition were the life belts?—A. The first two life belts which I found were without straps; after that I discovered one in good condition, and apparently there were others in good condition still unused.

16. Q. Were the lifeboats lowered by the crew?—A. One, I know, was not; the others I do not know.

17. Q. Did they seem adequate to accommodate all passengers?—A. I can not say; there were either six or eight.

18. Q. Was the vessel equipped with wireless?—A. Yes; it was.

19. Q. Do you know of your personal knowledge of any American having been killed by the explosion or drowned as a result of it; if so, who?—A. No; I only knew of several Americans being injured.

20. Q. At what hour did the explosion take place and how far was the vessel from shore at the time?—A. About 3 o'clock; there was no land in sight.

21. Q. Were there any other craft near the *Sussex* at the time she was struck?—A. No.

22. Q. Did you see any dead bodies lying on the deck, and if so, how many?—A. Yes; I saw two dead bodies.

23. Q. Did you notice any persons drowning?—A. I saw three persons who were drowning.

E. H. WILLIAMS-ASHMAN.

Subscribed and sworn to before me,

ARTHUR HUGH FRAZIER,
*Second Secretary of the Embassy
of the United States of America, at Paris,
this 27th day of March, 1916.*

[Seal of the American Embassy.]

Affidavit of Charles T. Crocker, IIId.

LORD WARDEN HOTEL,
Dover, March 28, 1916.

I was walking in the stern of the boat when the explosion occurred. I was thrown off my feet and washed against the railing by a wave that appeared to come from overhead. There was a slight panic for awhile—the lifeboats being overcrowded, and I remember one capsizing before reaching the water. The life belts were in very poor shape. It must have been over 30 minutes before I missed my cousin, George Crocker—and it suddenly dawned on me that some must have been wounded by the explosion. I may add here that the explosion seemed terrific at the time, and even cracked the deck in the stern near where I was standing. After the explosion there was a long white sort of a ribbon which came from the bow of the ship. It was about half the length of the ship, I should say 2 feet wide and floated 2 or 3 feet under the water. It looked something like a strip of paper. There was also a great deal of small coil wire both in the water and all over the deck. After getting to the wounded the remainder of the time, that is, until 11.30, when a French tug came up, was occupied by helping the injured.

The above statement is true to the best of my knowledge and belief.

CHARLES T. CROCKER, IIId.

Mar. 28, 1916.

Sworn to and attested before me this 28th day of March, 1916.

EUGENE C. SHOECRAFT,
Third Secretary of Embassy.

[Seal of the American Embassy.]

Deposition of Lilian S. Harde.

AMERICAN EMBASSY,
Paris, March 28, 1916.

The witness, after being duly sworn, testified as follows:

1. Q. What is your name?—A. Lilian S. Harde.
2. Q. Where and when were you born?—A. At New York, September 8, 1870.
3. Q. Where is your present home?—A. Hotel Majestic, Paris.

4. Q. What was the citizenship of your father?—A. American.
5. Q. What is your occupation?—A. Assistant at the Pasteur Institute, Paris.
6. Q. Were you a passenger on board the steamship *Sussex* leaving Folkestone for Dieppe on the 25th instant?—A. Yes.
7. Q. Did the *Sussex* show a flag?—A. I did not notice, myself, but was told that she flew a French flag.
8. Q. Where were you when the explosion occurred?—A. I was dozing on deck, midships, on the port side.
9. Q. Did you see any trace of a submarine?—A. No; I saw nothing.
10. Q. Did you see the track of a torpedo?—A. No; I did not, but previous to the explosion my eyes were shut.
11. Q. What, in your opinion, caused the explosion?—A. My opinion on this subject is based entirely upon hearsay. It was stated around me that, from the way the bow of the boat was cut after the explosion, the damage could only have been done by a torpedo.
12. Q. How would you describe the noise of the explosion?—A.—.
13. Q. Was the *Sussex* armed?—A. No.
14. Q. Were the passengers warned to put on life belts?—A. No; neither before nor after the explosion.
15. Q. Were the life belts in a position where they could be easily obtained?—A. Yes.
16. Q. In what condition were they?—A. My life belt, which came from downstairs, was in good condition, but I saw a number lying on the deck which had apparently fallen to pieces as a result of the wetting they got from the shower of water on the deck after the explosion. There were, however, plenty of good ones to go around.
17. Q. Were the lifeboats lowered by the crew?—A. No; the people took them and lowered them themselves. I think a great number of the crew were killed at the bow.
18. Q.—?—A. No. I do not think there were sufficient boats, but there were a great many rafts, all of which were not used.
19. Q. Was the vessel equipped with wireless?—A. Yes; but the apparatus went down in the explosion and was only repaired two hours later.
20. Q. Do you know of your personal knowledge of any Americans having been killed by the explosion or drowned as a result of it—if so, whom?—A. No, I do not of my personal knowledge know of any American having been killed, although I heard at once that Prof. Baldwin and

his daughter were dead, as they had been sitting in the bow of the boat.

21. Q. At what hour did the explosion take place and how far was the vessel from shore at the time?—A. At 3 o'clock; or, in other words, three hours before the boat was scheduled to arrive at Dieppe. We were an hour and a half out of Folkestone by my watch. It took us one and a half hours to reach Boulogne from the moment the trawler took us aboard; at that time we had drifted far out of our original course.

22. Q. Were there any other craft near the *Sussex* at the time she was struck?—A. No.

23. Q. Did you see any dead bodies lying on the deck, and if so, how many?—A. —.

24. Q. Did you notice any persons drowning?—A. Yes; I saw several people drowning—some who had jumped into the water and some who were in the capsized lifeboat.

25. Q. Have you anything to add?—A. I should like to add that the French officers who manned the boat did admirably.

LILLIAN S. HARDE.

Subscribed and sworn to before me,

HENRY R. CAREY,

*Third Secretary of the Embassy
of the United States of America,
at Paris, this 28th day of March, 1916.*

[Seal of the American Embassy.]

Deposition of Edna S. Harde.

AMERICAN EMBASSY,
Paris, March 28, 1916.

The witness, after being duly sworn, testified as follows:

1. Q. What is your name?—A. Edna S. Harde.
2. Q. Where and when were you born?—A. At New York, November 26, 1874.
3. Q. Where is your present home?—A. Hotel Majestic, Paris.
4. Q. What was the citizenship of your father?—A. American, native.
5. Q. What is your occupation?—A. Doctor, specialist in bacteriology, working at Pasteur Institute, Paris.

6. Q. Were you a passenger on board the steamship *Sussex*, leaving Folkestone for Dieppe on the 25th instant?—A. Yes.

7. Q. Did the *Sussex* show a flag?—A. I know only from hearsay that the *Sussex* flew a French flag.

8. Q. Where were you when the explosion occurred?—A. I was asleep in a ladies' cabin.

9. Q. How long was it before you reached the deck after the explosion?—A. A minute or two.

10. Q. Did you see any trace of a submarine or the track of a torpedo?—A. No.

11. Q. What, in your opinion, caused the explosion?—A. I can not give an opinion on the subject, as I do not know.

12. Q. Was the *Sussex* armed?—A. There were no arms visible from the upper deck as far as I could see, and no arms nor munitions were loaded before the boat set sail. I watched the operations of loading very carefully from the time I got on the boat until it was finished.

13. Q. Were the passengers warned to put on life belts?—A. I personally was not warned.

14. Q. In what condition were the life belts?—A. All that I saw were in good condition.

15. Q. Were the life belts in a position where they could be easily obtained?—A. All the chairs had life belts in their backs and belts also hung around the railing of the ship. There were others under the pillows in the ladies' saloon.

16. Q. Were the lifeboats lowered by the crew?—A. I saw two lifeboats lowered, which reached the water safely. A member of the crew, whom my sister states to have been a stoker, was in charge of the lowering of the boat she was in.

17. Q. Did the lifeboats seem adequate to accommodate all passengers?—A. No; apparently not, because there were about 100 of us left on board the *Sussex*; but there were many rafts.

18. Q. Was the vessel equipped with wireless?—A. It was.

19. Q. Do you know, of your personal knowledge, of any Americans having been killed by the explosion or drowned as a result of it? If so, who?—A. I was told at the time that Mr. and Miss Baldwin, who had been seen in the front of the boat, had immediately disappeared.

20. Q. At what hour did the explosion take place and how far was the vessel from shore at the time?—A. I heard that the explosion took

place at 3 o'clock. It was said at the time that we were nearer England than France.

21. Q. Were there any other craft near the *Sussex* at the time she was struck?—A. No; except three boats on the horizon, which soon disappeared.

22. Q. What was the explosion like?—A. It was a very sharp, quick explosion, over at once, accompanied and followed by a tremendous crash as of wood and glass. On leaving the *Sussex* on the *Marie Thérèse*, I noticed that the metal plates of the *Sussex* were bent outward on what seemed to be her left side in the extreme front of the boat.

23. Q. Did you see any dead bodies lying on the deck; and if so, how many?—A. I saw one dead body of a blonde young woman, about 25 years old, on the upper deck near the bow on the right-hand side; as a physician, I am certain that she was dead.

24. Q. Did you notice any persons drowning?—A. Saw many in the water, but all apparently supported by life belts or rafts, etc. This was very shortly after the explosion. I wish to add that the French crew behaved splendidly as far as I saw.

EDNA S. HARDE.

Subscribed and sworn to before me,

HENRY R. CAREY,
*Third Secretary of the Embassy
of the United States of America, at Paris,
this 28th day of March, 1916.*

[Seal of the American Embassy.]

Deposition of John H. Hearley.

AMERICAN EMBASSY,
Paris, March 28, 1916.

The witness, after being duly sworn, testified as follows:

1. Q. What is your name?—A. My name is John H. Hearley.
2. Q. Where and when were you born?—A. I was born at Albany, N. Y., on September 20, 1889.
3. Q. Where is your present home in the United States?—A. Albany, N. Y.

4. Q. What was the citizenship of your father?—A. My father was a naturalized American of British origin.

5. Q. What is your occupation?—A. I am a journalist.

6. Q. Were you a passenger on board the steamship *Sussex*, leaving Folkestone for Dieppe on the 24th instant?—A. I was.

7. Q. Did the *Sussex* show a flag, and, if so, what flag?—A. I am not absolutely sure, but it seems to me if she showed a flag that it was a French one.

8. Q. Where were you standing when the explosion occurred?—A. I was standing in the rear of the vessel, well back of the ship, at the end of the first class.

9. Q. Did you see any trace of a submarine?—A. I saw no trace of a submarine.

10. Q. Did you see a periscope?—A. I saw nothing resembling a periscope.

11. Q. Did you see the track of a torpedo?—A. I did not see the track of a torpedo.

12. Q. What, in your opinion, caused the explosion?—A. I have no certitude as to the cause of the explosion; I do not know whether a mine or a torpedo occasioned it. At first I did not believe it was an explosion, it sounded to me more like a slam of a heavy door instead of an explosion which made the *Sussex* a ship without a bow. I have not the slightest idea of the cause of the explosion.

13. Q. Did you see a sheet of water thrown up by the explosion and falling on the deck of the vessel?—A. No; I saw no water thrown upon the deck of the vessel by the explosion. I was pacing the stern of the boat and the cabins blocked such a sight.

14. Q. What was the condition of the sea; was it calm, glassy, or had it some movement?—A. The sea, as I remember it, was quite calm and with little movement.

15. Q. Was the *Sussex* armed?—A. I am not certain that the *Sussex* was armed or not; I am sure that personally I saw no guns upon her.

16. Q. Were the passengers warned to put on life belts?—A. Personally I was never warned to put on a life belt.

17. Q. In what condition were the life belts?—A. Speaking of the life belts collectively, I know little or nothing about them; the one I picked up, which was the last one in sight on the deck, apparently was in good condition.

18. Q. Were the lifeboats lowered by the crew?—A. After I realized

that an explosion had occurred, I looked about for a life belt; everybody around me seemed to have picked one up immediately after the shock; I myself did not find one until I discovered one well forward in the vessel swinging on a rail. I put on this life belt and shouted to some frightened women to follow me, and made for a lifeboat swinging desertedly near the captain's cabin. Three other civilians and I launched this boat and lowered it into the sea. Previously we had taken on board a number of women from the *Sussex* and picked up three or four who were clinging to rafts in the water. Personally I saw the crew of the *Sussex* launch two other lifeboats at about this time.

19. Q. Did they seem adequate to accommodate all passengers?—A. The lifeboats on the *Sussex* not only did not seem adequate to accommodate all the passengers, but in my mind were not adequate.

20. Q. Was the vessel equipped with wireless?—A. The vessel was equipped with wireless.

21. Q. Do you know, of your personal knowledge, of any American having been killed by the explosion or drowned as a result of it; if so, who?—A. Personally I know of no American who was killed by the explosion or drowned as the result of it. At first several other American survivors and I believed Miss Elizabeth Baldwin, of Philadelphia, to have been killed; however, she has since been reported wounded.

22. Q. At what hour did the explosion take place and how far was the vessel from shore at the time?—A. The explosion was heard about 3 o'clock in the afternoon; we were about two hours out of Folkestone it seemed to me. Later I heard that the *Sussex* was about in mid-channel at the time.

23. Q. Did you see any land at the time?—A. As far as I remember, no land was in sight at the time of the explosion.

24. Q. Were there any other craft near the *Sussex* at the time she was struck?—A. No other moving craft was near the *Sussex* at the time she was struck, as far as I could see. However, a short while before we had passed a mass of floating freight which appeared to be relics of a sunken steamer. A dirigible which had trailed our steamer for some time after we left Folkestone also had been out of sight for a matter of 10 or 15 minutes, it seemed to me, when the explosion occurred.

25. Q. Did you see any dead bodies lying on the deck; and if so, how many?—A. I saw several bodies lying on the deck; three of these I believed to be corpses; one, however, I now understand was that of Miss Baldwin, who is alive. Personally, I think five or six who were ren-

dered unconscious by the shock of the explosion or falling débris were at first believed to be dead.

26. Q. Did you notice any persons drowning?—A. Our lifeboat picked up three or four half-drowned women. There were others, men and women, who were clinging to rafts at some distance away from our boat; I am not certain whether these were picked up or not, but it seems probable that some of them, at least, were drowned, among these I think, was Granados and his wife who were fellow passengers of mine on the *Rotterdam*.

I wish to add that an interview reported with me in the *Matin*, of March 28, in which I am stated to have said the Germans were assassins and pirates, and that the *Sussex* was torpedoed, is a misquotation almost from start to finish. I made absolutely no mention of the word "German" or the words "torpedo" or "submarine" or of the words "murderers" or "assassins" in my statement to the representative of the *Matin*. As proof of the foregoing, Mr. Philip Simms, Paris manager of the United Press, who heard the interview, and Mr. Garnier of United Press agency, will vouch.

JOHN H. HEARLEY.

Subscribed and sworn to before me,

ROBT. W. BLISS,
*Secretary of the Embassy of the United States
of America, at Paris, this 28th day of March, 1916.*

[Seal of the American Embassy.]

Deposition of Dorothy W. Hilton.

AMERICAN EMBASSY,
Paris, March 28, 1916.

The witness, after being duly sworn, testified as follows:

1. Q. What is your name?—A. Mrs. Edward B. Hilton.
2. Q. Where is your residence?—A. 79 Avenue Malakoff, Paris.
3. Q. What is your nationality?—A. American.
4. Q. Where and when were you born?—A. Washington, D. C., June 2, 1868.

5. Q. What is your occupation?—A. Rentière.
6. Q. Were you a passenger on board the steamship *Sussex* leaving Folkestone for Dieppe on the 24th instant?—A. I was.
7. Q. Did the *Sussex* show a flag; and, if so, what flag?—A. I did not notice the flag.
8. Q. Where were you standing when the explosion occurred?—A. I happened to be seated under the bridge on the port side.
9. Q. Did you see any trace of a submarine?—A. No; I did not.
10. Q. Did you see the track of a torpedo?—A. No; I did not.
11. Q. If so, from what side of the boat did it seem to come?—A. —
12. Q. What in your opinion caused the explosion?—A. I do not know. I simply felt a shock—everything above fell and the explosion was followed by a great wave of water and I thought I would be drowned.
13. Q. Was the *Sussex* armed?—A. I saw no sign of guns.
14. Q. Were the passengers warned to put on life belts?—A. No.
15. Q. In what condition were the life belts?—A. In a terrible condition, they were no good—the strings were broken, the canvas torn.
16. Q. Were the lifeboats lowered by the crew?—A. No, I think not—there were four lifeboats, two on each side.
17. Q. Did they seem adequate to accommodate all passengers?—
A. They were not in sufficient number to rescue all the passengers.
18. Q. Was the vessel equipped with wireless?—A. Yes, it was.
19. Q. Do you know of your personal knowledge of any American having been killed by the explosion or drowned as a result of it—If so, who?—A. No, I do not know of my personal knowledge.
20. Q. At what hour did the explosion take place and how far was the vessel from shore at the time?—A. It was 2.45; I heard people say we were in mid-channel.
21. Q. Were there any other craft near the *Sussex* at the time she was struck?—A. Nothing to be seen.
22. Q. Did you see any dead bodies lying on the deck; and if so, how many?—A. No.
23. Q. Did you notice any persons drowning?—A. I saw people in the water with life belts on, two clinging to rafts, but no one drowning.
24. Q. Are there any remarks you would like to make?—A. Yes, I think it is a shame that a ship carrying so many passengers should not also carry the means to save their lives.
I thought all the channel boats were escorted, but a little after leaving

Folkestone I asked from an official on the boat whether it was escorted and he answered "Pas du tout."

About one-half an hour after the explosion had occurred a sailing boat seemed to approach and then went away.

DOROTHY W. HILTON.

Subscribed and sworn to before me,

ARTHUR HUGH FRAZIER,
*Second Secretary of the Embassy of
the United States of America, at
Paris, this 28th day of March, 1916.*

[Seal of the American Embassy.]

Deposition of Edna Frances Hilton.

AMERICAN EMBASSY,
Paris, March 28, 1916.

The witness, after being duly sworn, testified as follows:

1. Q. What is your name?—A. Edna Frances Hilton.
2. Q. Where is your residence?—A. 79, Avenue Malakoff, Paris.
3. Q. What is your nationality?—A. American.
4. Q. Where and when were you born?—A. In Paris, on the 31st of December, 1893.
5. Q. What is your occupation?—A. —.
6. Q. Were you a passenger on board the steamship *Sussex*, leaving Folkestone for Dieppe on the 24th instant?—A. Yes; I was.
7. Q. Did the *Sussex* show a flag and, if so, what flag?—A. I did not see any flag at all.
8. Q. Where were you standing when the explosion occurred?—A. I was reading in the dining room in the front. Most of the people who were in that room were killed by the explosion; those who remained were terribly injured. I was uninjured, though.
9. Q. Did you see any trace of a submarine?—A. No.
10. Q. Did you see the track of a torpedo?—A. No.
11. Q. If so, from what side of the boat did it seem to come?—A. Yes, I know it came on the left or port side because all the windows on this

side were smashed in. After the explosion occurred the ship had a slight list to the starboard.

12. Q. What in your opinion caused the explosion?—A. I had no idea; but I noticed something like a dark purple ink covered the face and hands of the people who were in the dining room.

13. Q. Was the *Sussex* armed?—A. No, I do not think so; if there had been guns on board it would not have failed to attract the attention.

14. Q. Were the passengers warned to put on life belts?—A. No, they were not.

15. Q. In what condition were the life belts?—A. In an awful condition; I picked up three which were without straps or strings; the canvas was rotten—there were three big holes in mine.

16. Q. Were the lifeboats lowered by the crew?—A. When the steamer left the port they were half lowered. The crew did not lower them after the accident; most of the crew were blown up by the explosion, I think.

17. Q. Did they seem adequate to accommodate all passengers?—A. Certainly not; there were only four small lifeboats which were quite insufficient.

18. Q. Was the vessel equipped with wireless?—A. Yes; but it was smashed by the explosion.

19. Q. Do you know of your personal knowledge of any American having been killed by the explosion or drowned as a result of it—if so, who?—A. No, I do not.

20. Q. At what hour did the explosion take place and how far was the vessel from shore at the time?—A. It was about 3 o'clock; we were in mid-channel; the lighthouse was visible all the time both in daytime and at night.

21. Q. Were there any other craft near the *Sussex* at the time she was struck?—A. There were no vessels in sight.

22. Q. Did you see any dead bodies lying on the deck, and if so, how many?—A. I did not. I saw some people terribly wounded.

23. Q. Did you notice any persons drowning?—A. I saw one man float by. Three women were picked out of water—one died in the boat.

24. Q. Are there any more remarks you would like to make?—A. There was a sailing boat coming and then going. There was nothing done to save the lives of the passengers. The lifeboats were in awful condition—there were three holes in the one I was in—and there were only four of them. I saw a number of British steamers within the harbor

of Folkestone, which I was told were being held on account of the presence of submarines in the channel. It therefore surprises me that the *Sussex* should have been sent out without escort.

EDNA F. HILTON.

Subscribed and sworn to before me,

ARTHUR HUGH FRAZIER,
*Second Secretary of the Embassy
of the United States of America,
at Paris, this 28th day of March, 1916.*

[Seal of the American Embassy.]

Deposition of Norman Meikle.

AMERICAN EMBASSY,
Paris, March 28, 1916.

The witness, after being duly sworn, testified as follows:

1. Q. What is your name?—A. Norman Meikle.
2. Q. Where is your residence?—A. Holyhead, North Wales, second engineer, steamship *Northern*, Lapalisie.
3. Q. What is your nationality?—A. British subject.
4. Q. Where and when were you born?—A. New Zealand, on May 2, 1885.
5. Q. What is your occupation?—A. Marine engineer.
6. Q. Were you a passenger on board the *Sussex* leaving Folkestone for Dieppe on the 24th instant?—A. Yes; I was.
7. Q. Did the *Sussex* show a flag, and, if so, what flag?—A. The French flag was flying until the ship had cleared the land.
8. Q. Where were you standing when the explosion occurred?—A. Between the first and second class barrier.
9. Q. Did you see the trace of a submarine?—A. No; I did not.
10. Q. Did you see the track of a torpedo?—A. No.
12. Q. What in your opinion caused the explosion?—A. I thought it was a mine.
- Q. Why did you think the ship struck a mine?—A. From the position of the wreckage and the fact that it seemed to strike the ship at the foot of the stem.

Q. Was the *Sussex* armed?—A. No; to my knowledge it was not armed.

Q. Was the vessel equipped with wireless?—A. Yes; she was equipped with wireless; it came down with the explosion.

Remark: If *Sussex* had been hit by torpedo it would have been possible for the submarine to have finished her with second torpedo.

NORMAN MEIKLE.

Subscribed and sworn to before me,

ARTHUR HUGH FRAZIER,
*Second Secretary of the Embassy
of the United States of America,
at Paris, this 28th day of March, 1916.*

[Seal of the American Embassy.]

Affidavit of Henry S. Beer.

AMERICAN CONSULATE,
St. Gall, Switzerland, March 29, 1916.

Henry S. Beer, being first duly sworn, deposes and says:

I am an American citizen. Together with my wife, I was a passenger on the steamer *Sussex* when that steamer was torpedoed absolutely without warning of any kind, in midchannel between Folkestone and Boulogne on the afternoon of March 24, 1916. I know of my own knowledge that the *Sussex* was torpedoed, for I saw the torpedo before it struck and while it was still a hundred yards or more distant from the steamer. It was just before 3 o'clock in the afternoon. I was on deck with an English friend, Mr. J. Faulkes, of Debenham & Co., London. We were standing at the railing on the left side of the steamer about 10 feet back from the ladder leading up to the captain's bridge. Mrs. Beer sat in a steamer chair just behind us. It was a clear, sunny day and, as I turned my eyes seaward, I distinctly saw the torpedo approach the steamer, a hundred yards or more away. Its course in the water was clearly marked and I could not have been mistaken. I exclaimed, "a torpedo" and the next instant it struck the steamer some distance in front of where we stood, throwing up a mass of water that drenched us, and literally tearing away the whole fore part of the steamer. The ladder leading to the captain's bridge was torn away and fell on the deck. The torpedo struck the steamer at an acute angle and not directly

head-on. Mrs. Beer and I found places in one of the boats, together with about 30 others, and rowed away from the steamer, which we expected to sink immediately. We rowed about for two hours, picking up half a dozen passengers who were clinging to bits of wreckage, and then seeing that the steamer was still afloat we rowed back to it, but were not allowed to go aboard. Again we rowed about two hours more and, night having come on, we again rowed back to the steamer and this time were taken aboard. About 11 o'clock at night a French trawler came alongside and took us off and brought us into Boulogne.

HENRY S. BEER.

Witnesses:

FRANK DIMINKE.

EMIL MEILE.

Subscribed and sworn to before me this 29th day of March, 1916.

GEORGE NICOLAS IFFT,
American Consul.

[Seal of the American Consulate.]

Deposition of Edna Hale.

AMERICAN EMBASSY,
Paris, March 29, 1916.

The witness, after being duly sworn, testified as follows:

1. Q. What is your name?—A. My name is Edna Hale.
2. Q. Where is your residence?—A. I am now living in London, 17 Clarendon Street, Pimlico, S. W.
3. Q. What is your nationality?—A. I am an American.
4. Q. Where and when were you born?—A. I was born in New York City, on March 18, 1870.
5. Q. What was the nationality of your father?—A. He was British.
6. Q. What is your occupation?—A. I am an artist.
7. Q. Were you a passenger on board the steamship *Sussex* leaving Folkestone for Dieppe on the 24th instant?—A. I was.
8. Q. Did the *Sussex* show a flag; and if so, what flag?—A. I did not notice.

9. Q. What was the state of the weather?—A. It was a beautiful sunshiny day, perfectly calm.

10. Q. Where were you standing when the explosion occurred?—A. I was standing just aft of the bridge on the port side.

11. Q. Did you see any trace of a submarine?—A. Not any at all.

12. Q. Did you see any track of a torpedo?—A. No, I did not; I was not taking any notice.

13. Q. What in your opinion caused the explosion?—A. I had an impression when I was thrown down that it was a mine.

14. Q. What caused the impression that the vessel had struck a mine rather than it was struck by a torpedo?—A. I can not tell of course how a mine or a torpedo would strike a vessel, but I had a kind of psychic impression that it was a mine, increased by the fact that the bow was lifted up.

15. Q. Was the *Sussex* armed?—A. No; not in any way.

16. Q. Were the passengers warned to put on life belts?—A. No, and I think that it was a great mistake; I think every one should have a life preserver on before starting. I fortunately had looked where they were beforehand, and when I picked myself up, which I did very quickly, I immediately took one up.

17. Q. In what condition were the life belts?—A. Mine was splendid and so was the one hanging next to mine.

18. Q. Were the lifeboats lowered by the crew?—A. Partly by the crew and partly by the passengers; I know, because I got quite calm and was watching it.

19. Q. Did they seem adequate to accommodate all passengers?—A. No; nothing like it.

20. Q. Was the vessel equipped with wireless?—A. Yes; it was damaged by the explosion, but afterwards repaired.

21. Q. Do you know of your personal knowledge of any American having been killed by the explosion or drowned as a result of it?—A. No; not one.

22. Q. At what hour did the explosion take place and how far was the vessel from shore at the time?—A. I believe it was about 4 o'clock, but can not tell exactly, as I did not look. I should think we must have been in midchannel, south of Boulogne.

23. Q. Were there any other craft near the *Sussex* at the time she was struck?—A. No; I did not see any.

24. Q. Did you see any dead bodies lying on the deck; and if so, how

many?—A. I saw several bodies on the deck; I believe one, at least, must have been dead.

25. Q. Did you notice any persons drowning?—A.. Yes, I did; three or four; of course I could not tell for sure, but they seemed to be drowning. I also saw one or two children.

EDNA HALE.

Subscribed and sworn to before me,

ROBT. W. BLISS,
*Secretary of the Embassy of the
United States of America,
at Paris, this 29th day of March, 1916.*

[Seal of the American Embassy.]

Affidavit of Irima Ryckeboer.

AMERICAN CONSULATE,
Calais, France, March 31, 1916.

Irima Ryckeboer, being duly sworn, upon her oath says that she was one of the passengers on board the steamship *Sussex* on the 24th day of March, 1916, and was one of the victims of the explosion which cut off about twelve metres of the forward portion of said boat *Sussex*; that at the time of the explosion she was occupying a seat in the forward part to the left in the dining room of the first-class passengers; that the explosion not only gave her a severe shock from which she is still suffering but also cast upon her a piece of iron which severed one of the tendons of her fore finger on her left hand which necessitated a surgical operation; that she did not see the wake of the torpedo in the water as was seen by others on board, but that a sailor of the *Sussex* who bandaged her hand for the first time after her injuries aboard told her that the *Sussex* had been torpedoed by a submarine because he saw the wake of a torpedo in the water about one hundred yards away just before the explosion took place and that he, the sailor, who was on the bridge with the captain, yelled out to the captain that a torpedo was coming through the water; that the sailor described the wake of the torpedo as looking like the water when agitated by a great fish swimming just beneath the sur-

face; that the captain, who also saw the wake of the torpedo gave immediately a command to the engineer to maneuver the engine so as to dodge the torpedo.

Affiant further swears that the sailor above mentioned made the foregoing statements attributed to him by the affiant while dressing her wounded hand on board the *Sussex* after the explosion and long before she debarked from the ship that came to the rescue at Boulogne-sur-mer.

Affiant further says that from what the captain, the sailor, and others saw on board the *Sussex* that every one believed that the *Sussex* had been torpedoed by a submarine.

Affiant further says that the explosion took place about three o'clock in the afternoon on the day aforesaid and that she took refuge in a lifeboat with a large number of other people, among whom there was an American and his wife; that while they were in the lifeboat they remarked a long dark object on the surface of the water like that of a submarine; that she saw it afterwards disappear in the water by plunging; that not only affiant remarked this fact, but also other persons who were seated in the lifeboat with her; that at the time they saw this object disappear in the water it was still broad daylight.

Affiant further swears that at the time of the explosion the weather was fine and the sea calm; that she had walked over the decks of the boat and she did not discover any guns or arms of any kind on board; that in her judgment from 60 to 70 per cent of the passengers on board were women and children.

Affiant further says that she is now in Paris and expects in a few days to leave for Lisbon, Portugal, to embark on board a Holland ship for Rio de Janeiro, Brazil; that her address in Paris is care of Mme. Zendowan, 14 Rue Colonel Moll.

Affiant further says that her profession is that of a first fitter as a dress-maker; that she is en route to Rio de Janeiro, Brazil, where she intends to establish a business; that she is twenty years of age and was born at Boulogne-sur-mer, France.

IRIMA RYCKEBOER.

Subscribed and sworn before me on this 31st day of March, 1916.

J. B. MILNER,
American Consul.

[Seal of the American Consulate.]

Report of Rear Admiral Grasset, of the French Navy.¹

[Translation]

Paris, March 31, 1916.

REAR ADMIRAL A. GRASSET, ASSISTANT CHIEF OF GENERAL STAFF, TO THE
VICE ADMIRAL, CHIEF OF GENERAL STAFF.

ADMIRAL: In conformity with your orders, I left for Boulogne, where I began an investigation relative to the *Sussex*.

On the 24th of March the *Sussex*, of the Compagnie des Chemins de Fer de l'Etat, making the regular service between England and France, left Folkestone at 13.25 for Dieppe. This ship carried about 325 ² passengers of all nationalities, among whom a great number of women and children, together with the Indian mail; the ship was not armed. The crew comprised 53 men.

From the departure the speed was regulated at 16 knots; after passing a mile from Dungeness, the captain put the ship on the course S. 3° E. The weather was fair; the sea almost calm. Most of the passengers were on deck. Suddenly, before anything could attract attention, the captain, who was on the bridge, perceived 150 meters away on the port side forward the track of a torpedo. It was then 14.50; the clocks on board in stopping registered the exact time of the catastrophe. The second officer and the boatswain, who were on the bridge, likewise saw the torpedo quite clearly. With a good deal of calmness and decision the captain gave the order to put the helm to the right and to stop the starboard engine in order to pivot to the right and avoid the torpedo. These two orders were executed immediately; the depositions of the engineers on duty are proof of this. The evolution began to take place when, about 8 seconds ³ after the torpedo was seen, a formidable explosion was produced, lifting up an enormous geyser of water; the ship was cut in two as far as the bridge. The forward part disappeared entirely; the after part of the ship, thanks to the strength of the water-tight compartments, kept afloat.

¹ Transmitted with Ambassador Sharp's dispatch No. 3123.

² This approximate number is given by the captain. According to the company, there were 383 passengers. The man who had charge of controlling the tickets was severely wounded and transported to Dover; he is not in a condition to give information.

³ According to the distance at which the torpedo was seen and the time elapsed until the moment of the explosion, the speed of the torpedo must have been 36 knots, which is the normal speed for these engines.

On the deck a number of passengers on board perceived the torpedo at the moment of its arrival; one of them even said to his neighbor to look at the "large fish coming toward the vessel." All the persons who were forward disappeared with the part of the ship which sank, amongst whom the passengers who were on the deck forward and in the first class saloon, the men of the crew who were in the forecastle, the forward lookout, and the masthead lookout, likewise disappeared.

The captain, who was knocked down by the geyser of water produced by the explosion, ordered the crew to go to the life-saving stations. The firemen and the mechanics mounted to their posts after having stopped the port engine and having closed the doors of the furnaces. At the same time the wireless operator endeavored to send a signal of distress without succeeding, the antennæ having fallen with the mizzen mast. The crew went to the designated stations in order to put out the lifeboats and rafts,⁴ but the confusion on the deck rendered any circulation very difficult.

This terrible explosion produced a panic amongst the passengers which, fortunately, was short; a mother was seen to throw her child into the sea and then to precipitate herself after it; many passengers likewise threw themselves into the sea; others were restrained by the men of the crew. A number of passengers precipitated themselves into the lifeboats, overfilling them. It was necessary to make some of them get out of the whaleboats, but when these boats were brought near, two of them were again invaded at the moment they passed on a level with the deck and they upset by reason of overcrowding when reaching the sea.⁵ The two other whaleboats and the two cutters remained floating, filled with passengers; in each boat were two men of the crew.

The engineers ascertained that the water-tight doors of the compartments were solidly closed and opened the safety valves of the boilers to be ready for all emergencies. The wounded were transported to the cabins; the medicine chest, which was forward, having disappeared in the explosion, bandages were made with napkins, and an unknown passenger, probably an English doctor, gave the necessary care with great devotion; among the wounded a man had his two legs cut off, another

⁴ There were 6 lifeboats which could contain 184 persons. There were 22 rafts which could contain 264 persons. Moreover, 816 life belts. From the depositions these life belts were in the orlop deck; a number of them were in bad condition.

⁵ The boatswain, 1 seaman, and 3 passengers were able to climb on the keel of an upset whaleboat. These persons were thereafter picked up.

had his thigh severed; several being severely wounded were in a state of coma.

The vessel remained floating, with no list, the after part being higher than the bow by 30 centimeters. The captain and the crew reassured the passengers who had remained on board by showing them that the ship would not sink. About 5 o'clock the breeze freshening, the sea rising, the captain recalled the lifeboats and made the passengers disembark and convinced them that they would be in greater safety on board the *Sussex*. The women and children were conducted to the second-class saloon, aft, where they were warmed with blankets and with hot drinks; the men remained on deck.

The wireless operator occupied himself with repairing the antennæ and made it fast between the mainmast and the davit; the work was not terminated until 16.30; it was only then that he could give news of the catastrophe.

The engineers having ascertained that the engines were able to turn over, the captain called together the second officer, the boatswain, two officers of the English Navy, who were passengers, and proposed to them to reverse the engines and thus make for the English coast at slow speed. On the advice of the English officers he gave up his plan. At 20 o'clock he decided to send a whaleboat to notify the lightship *Colbart*, which was in view and which he supposed to be connected to the land by telegraph; nine volunteers embarked in the whaleboat.

Meanwhile, by an unfortunate combination of circumstances, help was late in arriving. The position notified by the wireless message was erroneous by about 15 miles; moreover, during the time that elapsed between the moment of the explosion and that when the distress signal was sent, the ship drifted. As soon as the news arrived at Boulogne, at 16.30, the patrol boats received orders to go to the help of the ship in danger. They went to the indicated spot, but found nothing, and then started to search in the neighborhood. It was only at 22.40 that the *Marie-Thérèse*, of which the captain conducted the search with method and initiative, came near the *Sussex*. The breeze was then strong from southwest and the sea heavy. The debarkation by lifeboats would have been dangerous. The captain of the *Marie-Thérèse* decided to come along the *Sussex*. The transfer of the passengers took place in the greatest calmness; the women and children were passed through a port hole of the *Sussex*, and men let themselves down by ropes. In spite of

the condition of the sea no accident took place, and, at 23.45, the *Marie-Thérèse* made for Boulogne with 192 passengers.

During this operation a number of English and French ships had gathered together; an English destroyer took the place of the *Marie-Thérèse* and embarked the rest of the passengers. The wounded, extended in hammocks, were placed on the companionway, which the captain of the *Sussex* had had sawed in two. This trestle raised by a davit allowed the wounded to be carried without causing them too great pain. The English destroyer transported these passengers, numbering 49, to England.

After disembarking the passengers an English destroyer took the *Sussex* in tow by the stern and made for Boulogne, but three-fourths of an hour later the tow-rope broke. Soon after some tugboats arrived from Boulogne and towed the *Sussex* to Boulogne, where she arrived at 14 o'clock.

Much débris coming from the torpedo was found aboard the *Sussex*. Several fragments were given to the American delegates who came to Boulogne; the others will be addressed to the department by maritime authority.

The submarine which torpedoed the *Sussex* could not be ignorant that she was attacking the mail boat, affecting the regular service between France and England. Not only the silhouette of such boats is known to all sailors, but the route of the *Sussex* and the time of her passage indicated her service. It is therefore a premeditated attack against an unarmed merchant vessel executed without the least warning.

One more fact brings into relief the premeditation and the relentlessness of the submarine. As it has been said before, a whaleboat was sent at 20 o'clock to the lightship *Colbart* to announce the catastrophe; this whaleboat arrived at the lightship at 23.45. Its crew was received by an English destroyer at 3 o'clock in the morning. During the transfer of the crew a torpedo was launched at the destroyer and passed several meters to the stern. This fact was confirmed by the British Admiralty. Now, according to the distance made by the whaleboat with oars, the lightship was at 6 or 7 miles at the maximum from the *Sussex*. From this it appears that the submarine remained in the neighborhood of the *Sussex* to torpedo any of the ships which might come to help her victim.

I will add in terminating that before leaving Boulogne I visited the room where the coffins of the victims were placed, reposing under green plants, under the guard of an armed detachment.

Photographs representing the *Sussex* in her actual condition will be sent you by the next mail.

A. GRASSET,
Rear Admiral, Assistant Chief of General Staff.

*Report of Naval Attachés Sayles and Smith and Military Observer Logan
to Ambassador Sharp.*

AMERICAN EMBASSY,
Paris, France, April 1, 1916.

SIR: We have the honor to submit the following additional report in connection with the *Sussex* affair:

All fragments of metal which we personally picked up on board the steamship *Sussex* were sealed and tagged so as to prevent any confusion arising in the future. The fragments consist of 15 pieces, numbered from 1 to 15, inclusive.

There were four possible explanations of the explosion that occurred in the steamship *Sussex*, viz: (1) Internal explosion occasioned by the boilers of the ship; (2) internal explosion occasioned by some sort of material contained in the ship's cargo; (3) contact with a mine; (4) contact with a torpedo.

1. An actual and careful examination of the ship and its boilers by Maj. Logan and Lieut. Smith shows conclusively that the boilers of the ship are in serviceable condition to-day. The two bulkheads separating the boiler room from the destroyed portion of the ship are intact, and it was the most forward of these which held the water coming in through the open portion of the ship. As a matter of fact, the ship could have been backed into port had it not been for the fear that the backward pull of the water on this bulkhead would have been dangerous. It is reported that the advisability of this procedure was discussed by the captain and some of the passengers, but was given up. The electric-light plant of the ship functioned all the time. For the foregoing reasons this cause of the incident may be dismissed.

2. The ship was primarily a passenger and mail carrying boat, and on this account had only two small cargo holds—one aft of amidships and one in the portion of the ship cut off by the explosion. The afterhold is said

to have contained some Indian mail and the baggage of the passengers. This cargo hold is of course uninjured. The forward hold is reported officially to have contained at the time of the accident about 3 tons of cargo, consisting of aeroplane wire, a number of rolls of cloth, and a few motorcycles, together with some second-class mail matter (newspapers, journals, etc.). So far as known and officially reported, no explosive material of any kind was being transported on this ship. Maj. Logan and Lieut. Smith, who inspected the *Sussex*, report, and the photographs taken of the ship's injuries, particularly on the port side of the ship, demonstrated clearly that the injury to the ship was not occasioned by an internal explosion. The port side of the ship's bottom remaining intact, which is immediately behind the cargo hold, is bent inward to such an extent as to preclude any supposition of the effect of the explosion having been caused by any other than the contact and penetration of the ship by an explosive weapon striking the outside of the ship's hull.

3. The injury to the steamship *Sussex* is officially reported to have occurred at 2.50 p. m., March 24, 1916, and the ship's position at that time is reported to have been latitude 50° 42' north and longitude 1° 20' west of Paris. The ship is reported to have left Folkestone with destination Dieppe at 1.35 p. m., course 36° (true) west, passing 1 mile east of Dungeness. At 2 p. m. the ship is reported to have been abeam of the last light heading south 3° west (true). At 2.50 p. m. (time of the accident) the ship is reported to have been in the latitude and longitude above given and about 13 miles off Dungeness. This position agrees with the reputed speed of the ship, viz, 16 knots per hour. (In other words, the ship was therefore outside of any territorial waters.)

At mean low water at this position there is a depth of 31 meters. The official time of the incident was 1 hour and 13 minutes after high water. The height of the tide at this time was about 7.60 meters. The depth of the water at the time of the incident was therefore 38.60 meters. The maximum draft of the ship at the time of the incident is reported to have been 3.20 meters.

From the foregoing facts the assumption may be drawn that the *Sussex* did not come into contact with an anchored mine.

German mines.—At the French Ministry of Marine we were shown the plans of a late type of German mine. We carefully examined these plans with a view to determining whether or not any of these fragments we had found on the *Sussex* formed any part of such mine. We examined with particular attention not only the interior and exterior portion of the

mine proper but also particularly the anchoring gear and other accessories.

We deducted from this examination that neither of the two screw bolts in our possession formed any part of such a mine. (See later.) Of the remaining 13 fragments we are also agreed that 7 fragments do not form part of a mine. The remaining 6 pieces we are unable to determine definitely whether or not they are fragments of a mine or torpedo or very possibly of some portion of the ship's cargo.

The foregoing deductions from these plans were confirmed by an examination of somewhat similar plans of a German mine at Boulogne by Maj. Logan and Lieut. Smith on March 27, 1916; by an examination of certain pieces of a German mine at Rochefort by Lieut. Commander Sayles on March 25, 1916, and by an examination of a German mine at Toulon on March 31, 1916, by Lieut. Commander Sayles, Maj. Logan, and Lieut. Smith.

4. With the permission of the French Government we proceeded to Toulon, where we were permitted to see a captured German torpedo and to have it disassembled in our presence. The two screw bolts in our possession found on the *Sussex* by Lieut. Smith were stamped on the head as follows, viz, (a) on one surface "K" and on another surface "56"; (b) on one surface "K" and on another surface "58." These bolts are shaped in the same general way for use on all torpedoes of all countries. They are the bolts used for attaching the war head of the torpedo to the air chamber and also for attaching the afterbody to the air chamber. The German torpedo we saw at Toulon was No. 1804, in white paint. Its length was 5 m. 066 by 450 mm. It had stamped on it the additional letters and figures "J. P. 357." We were given in addition complete plans of this torpedo. The torpedo that we saw was said to have been built about 15 years ago and was picked up by the French on the beach near Boulogne April, 1915, after it had been discharged by a German submarine at a cargo ship. With the exception of the casing of the torpedo head the entire torpedo, including engine cylinders and fittings, is made out of a bronze composition. The head of this torpedo was attached to the air chamber by 10 screw bolts and 10 screws. This made a total of 20 holes in the circumference of the forward end of the air chamber, each being numbered consecutively from 1 to 20. The screw bolts were set in the even-numbered holes, whereas the flat-head screws were set in the odd-numbered holes. Each screw bolt was numbered with the corresponding numbered hole it occupied, and in addition

had the letter "K" on it. These screw bolts are identical in size, shape, and marking with those we had picked up on the *Sussex*. We have two of these now in our possession which we removed from the torpedo at Toulon. The letter "K" on the fitting of the head of a torpedo is said to be characteristic of German torpedoes and to represent the German word "kopf," or head, and this with its number shows at a glance the position of the hole where it is to be placed. While at Toulon we were also permitted to examine similar screw bolts used on British and French torpedoes. These had no letters or numbers and we were informed that they were not so numbered or lettered in either of the services. They were also of a slightly different size. We have one of each of these in our possession. The fact that the numbered pieces we have in our possession are numbered "56 K" and "58 K," respectively, whereas the highest numbered "K" piece we saw on the torpedo at Toulon was numbered "20 K," leads us to believe that the torpedo from which the screw bolts found on the *Sussex* came was of a slightly different model than that on the one at Toulon. The fact of the pieces being numbered, being of the same size, and being lettered "K" is, however, very important; and is, to say the least, a very convincing circumstance.

Of the seven fragments that we also agreed upon as forming no part of the mine, four of these we have agreed upon as having formed part of one of the engine cylinders used on a German torpedo. The engine in the German torpedo we saw at Toulon was a three-cylinder reciprocating engine. The four pieces we agreed upon have been carefully compared with not only the drawings, but also with the actual engine parts, and are identical in shape and composition. The torpedo which may have hit the *Sussex* may have been a four-cylinder type, in accordance with some of the later models, and likewise some of its outside surfaces may not necessarily be of a bronze composition. We have no fragments that we can positively identify as belonging to the exterior surface of the torpedo. A four-cylinder engine would not necessarily vary much in design in the engine cylinders. The remaining three fragments of the group which we are agreed upon as not forming part of a mine we agree are parts of the same engine from which the preceding four parts have come. On account of the small size and shape of these pieces and from the effects of the explosion, we were unable to definitely place their position on either the plans or the engine we saw. We consider these particular fragments, while not constituting as positive and convincing evidence as the screw bolts, to be nevertheless of the greatest possible

importance in the consideration of the merits of the case and a very convincing contributory circumstance. We have the honor to be, sir,

Your obedient servants,

W. R. SAYLES,

Lieut. Comdr. U. S. Navy.

JAMES A. LOGAN,

Major, Q. M. C., U. S. Army.

B. L. SMITH,

1st Lieut., U. S. M. C.

Report of Naval Attachés Sayles and Smith to Ambassador W. H. Page.

AMERICAN EMBASSY,

London, April 5, 1916.

SIR: In accordance with orders received from the Secretary of State we have the honor to report as follows concerning the attack made on the steamship *Sussex*.

From the evidence obtained by us the following facts have been adduced and have been previously reported to the American ambassador, Paris.

The steamship *Sussex* at the time of the incident, viz, 2.50 p. m., March 24, 1916, was well outside territorial waters, proceeding on free route on the high seas. She carried no arms or armament; the cargo on board amounted to about only 3 tons, consisting of aeroplane wire, aeroplane cloth, and a few motorcycles. There were a large number of passengers on board, nearly one-half subjects of neutral States; also a large amount of first and second class mail matter. No warning of any kind was given the vessel, nor was a submarine sighted. The track of the torpedo was reported to have been seen by the commanding officer, who immediately ported his helm, stopped his starboard engine, and signaled it to go astern. The engine was stopped, but there was not time to obey the latter signal. This report of the commanding officer has been verified by personal conversation with the engineer on duty at the time.

Three American citizens have made sworn depositions to the American Ambassador, Paris, that they personally saw the track of the torpedo on the water just before the vessel was hit.

The exhibits in the case are tagged, sealed, and numbered from 1 to 16, inclusive. All these pieces except that numbered 16 were picked up

personally by Lieut. Smith from the steamship *Sussex*. Exhibit 16 was handed to Lieut. Smith by Capt. Balincourt, French Navy, who states that he personally picked it up from the deck of the *Sussex*.

Exhibits marked 1 and 2 have been compared with the head body screws of German torpedoes No. 1804 at Toulon and No. 2121 at Portsmouth, and have been found to be identical in size, pitch of screw, and characteristic markings.

After a comparison and close examination of German torpedo No. 1804 at Toulon; German torpedoes No. 2121 and No. 2340 at Portsmouth; fragments from German torpedo L. S. No. 5925 at Portsmouth; and from drawings and descriptions of German torpedo No. 3352, taken from I. M. S. *Emden*, we have been able to positively identify and locate all the other fragments picked up on board the steamship *Sussex*, that is, Exhibits 3 to 16, inclusive.

Exhibit 3; part of inner seat of water relieve valve of engine valve.

Exhibits 4 and 5; reënforcing bands of engine-room casing.

Exhibits 6 to 10, inclusive, and 12; parts of engine cylinders.

Exhibits 11, 13, 14, 15; parts of steel war head, still bearing the distinctive red paint common to German torpedo war heads.

Exhibit 16; part of lantern frame inside of either engine-room casing or maneuvering chamber.

There was also shown us at Portsmouth a piece of metal which was stated to have been picked up on board the steamship *Sussex* by Commander Harvey, R. N., who was a passenger on board the ship at the time. This we identified as forming part of a main engine piston of a German torpedo.

Inspection and examination of various types of German mines at Portsmouth confirmed and substantiated the opinions we had already formed from the examination of types of German mines at Boulogne, Rochefort, and Toulon; that is, that none of the fragments picked up on board the steamship *Sussex* could have possibly come from or formed part of any mine known to us.

We are of the opinion that the torpedo employed was one of a comparatively recent date; its serial number was probably between three and five thousand. The older types of German torpedoes employ guncotton for an explosive charge; the more recent are constructed of steel and are charged with T. N. T.

This being the case, the *Sussex* probably escaped total destruction by the fact that, as shown by the photographs which were taken of the

injury done to the vessel, the torpedo struck a glancing blow, well forward, and did not penetrate any of the machinery compartments.

We have, etc.,

WILLIAM R. SAYLES,
Lieut. Commander, U. S. Navy,
Naval Attaché, Paris.
BERNARD L. SMITH,
Lieut., U. S. M. C.,
Assistant Naval Attaché, Paris.

Affidavit of Ida E. Beer.

AMERICAN CONSULATE,
St. Gall, Switzerland, April 6, 1916.

Ida E. Beer, being first duly sworn, deposes and says:

I am the wife of Henry S. Beer, and, together with my husband, was a passenger on the steamer *Sussex* at the time of the accident to that vessel on March 24, 1916. We were on deck, my husband standing at the rail, watching the water and talking to a friend and I sitting in a steamer chair just behind them. I heard my husband exclaim, "a torpedo," and almost instantly the explosion followed. We were drenched with water and the whole fore part of the steamer was torn away. There had been no warning and no evidence of danger prior to the explosion.

IDA E. BEER.

Subscribed and sworn to before me this 6th day of April, 1916.

GEORGE NICOLAS IFFT,
American Consul.

[Seal of the American Consulate.]

The French Ambassador to the Secretary of State.

FRENCH EMBASSY,
Washington, April 9, 1916.

MY DEAR MR. SECRETARY: I had asked my Government after our conversation the other day whether there was anything in the statement

that the *Sussex* had carried troops before, and might therefore have been supposed by the submarine to have been so employed when it was torpedoed—one of the many excuses put forth as an explanation of the cruel deed.

The answer reached me this morning: The *Sussex* has *never* transported troops. As was well known to all, she has been plying for many years between Dieppe and England, and was following, when torpedoed, her usual route, well known also to sailors. This is what allowed to find her after the disaster and to save part of the crew and passengers.

The route followed by transport ships is quite a different one.

Believe me, etc.,

JUSSERAND.

Report of Military Observer Logan and Assistant Naval Attaché Smith.

AMERICAN EMBASSY,
Paris, April 13, 1916.

We arrived at Boulogne March 26, 1916, at about 8 p. m. That night at about 10 p. m. we were met by Capt. de Balincourt of the French Navy and the American consul from Calais.

March 27, in accordance with an appointment, we all met at 10 a. m. in Capt. de Balincourt's office. At this meeting we were informed that the findings of the French official inquiry into the *Sussex* incident were that the injuries to the *Sussex* were caused by a German torpedo. At this same meeting Capt. de Balincourt handed us fragment No. 16, which he claimed he had personally found on the upper deck after the arrival of the *Sussex* in Boulogne on March 26.

We agreed at this time, between ourselves, that we would not be justified in basing any of our findings on evidence of this character presented to us by French authorities or anyone else, but that our findings should be based, so far as any fragments were concerned, on the results of the actual search of the ship by one or the other of us. We had and have no reason to doubt the absolute sincerity and truthfulness of the statements made to us by the French authorities at Boulogne, but at no time did we allow these statements to influence our investigations and conclusions, as we fully realized at the time the prejudice of the French in the case.

One or both of us were on board the *Sussex* during the mornings and afternoons of March 27, 28, and 29, with the exception of the morning of the 28th, when we attended the questioning of certain witnesses by the French authorities.

During the afternoon of March 27, while Maj. Logan was examining members of the crew with the French naval lieutenant, Lieut. Smith, who was entirely alone, found a small fragment No. 9 on the port side of the hull near the keel. The position where this piece was found was very near to the point where the ship was struck and was wedged in a very inconspicuous place between a beam and the hull plating of the ship. Further search at this time by Lieut. Smith in the general vicinity of the explosion on both the port and starboard sides, and on the various decks revealed a piece of light steel casing with red paint on it. This latter fragment was at the time considered to be of doubtful origin but was retained, as it appeared to be of material foreign to the ship's material.

On the morning of March 28 we were present at the meeting referred to above. That same afternoon, while Maj. Logan was questioning Prof. Baldwin, Lieut. Smith, entirely alone, spent the afternoon on board the *Sussex*. He was unable to find any additional evidence near the explosion, so he went to the navigating bridge for the purpose of inspecting the compass and binnacle, as we wanted to assure ourselves that fragment No. 16, given us by the French authorities, did not come from this source. Finding the compass and binnacle intact he began to search among the debris on the bridge. After considerable search he found the bronze fragment No. 4 engaged between the port running light and the wooden shield behind it. He discovered this fragment while leaning out over the rail for the purpose of seeing in what condition the lights were.

Taking a clue from this he began to work aft along the port side of the deck house. In the port scupper alongside and practically hidden from view he found a screw bolt, No. 1 fragment. Continuing aft just to the wireless cabin he found several small fragments of bronze casing and another screw bolt. To the starboard of the wireless cabin he found fragment No. 5. This latter fragment was the only one he found in a position which could be called conspicuous. Fragment No. 3 he found by the saloon deck hatch located amidship of the deck house.

During the entire time of his search he was entirely alone; in fact, during his search over the deck house no other person was on deck.

Perhaps the most convincing evidence of the fact that these pieces

had not been placed on this ship for the purpose of deceiving us was the fact that on March 28 both Maj. Logan and Lieut. Smith were present during the cleaning out of the débris on the lower decks near the point of the explosion. This cleaning was being carried out for both the purpose of clearing the ship as well as for the search of possible dead still remaining on board. During the course of this cleaning out a portion of the leg of a man with a shoe on was discovered in the débris. The débris on the saloon deck was some 4 or 5 feet deep, and was very closely packed due to the action of the water when the ship was afloat at high tide. It bore convincing indications of not having been touched since the explosion. Maj. Logan and Lieut. Smith at this time found three fragments, Nos. 11, 13, and 14, which were uncovered from below this débris in their presence, and which every indication showed could not have been placed there after the explosion had occurred and the débris had accumulated and fallen on top.

The two screw bolts bear every evidence of having been in an extremely heavy explosion and in immediate contact with explosive material which caused a distinct fusing of portions of the bolts. Sheared diagonally in the threaded body of the bolts they appear to have been in contact with a melting force which left a glazed finish. In addition to this the bolts have been slightly bent, which appears to have come from a twisting force. The twist is opposite to the shear of the bolts. This twist is very characteristic of the effects that would naturally be expected from a bolt partially embedded diagonally in a solid body, such as is the case in the war head of a torpedo. It would be practically impossible to artificially fake all of these injuries to a screw bolt of this character.

From the time that the explosion occurred to the time that we made our investigations there was very naturally time for some party or parties to have placed fragments aboard the *Sussex* with a view to deceiving us. On the other hand, from the character of the fragments, their natural and inconspicuous location and their wide distribution, and the fact of certain fragments having been found under the débris, leads us to believe that it is wholly improbable that they were placed on board the ship after the explosion or that they came from any other source than the torpedo that hit the ship.

JAMES A. LOGAN, Jr.,
Major, Q. M. C.
B. L. SMITH,
1st Lieut. U. S. M. C.

*Report of Naval Attachés Sayles and Smith and Military Observer Logan to
Ambassador Sharp.*

AMERICAN EMBASSY,
Paris, April 13, 1916.

SIR: We have the honor to submit the following report to accompany the fragments of an explosive engine found on board the steamship *Sussex* by Lieut. B. L. Smith, U. S. M. C., and Maj. Logan, U. S. A., on March 27 and 28, 1916, at Boulogne and compared with German torpedoes now in the hands of the French and English Governments.

The fragments are tagged, sealed, and numbered from 1 to 15, inclusive; on each tag there is also noted the location on board the *Sussex* where each piece was picked up by Lieut. Smith and Maj. Logan.

In addition to the above-mentioned fragments, there is also another piece found by Capt. Balincourt, French Navy, and turned over to Lieut. Smith. This fragment is also tagged, sealed, and bears the number 16.

This comparison was made with German torpedoes, fragments, and drawings, as follows:

1st. Torpedo—serial number 1804, at Toulon, France, picked up afloat in the English Channel during the month of April, 1915.

2d. Torpedo—No. 2121 and 2340, at Portsmouth, England, recovered from the channel or North Sea by the English Navy.

3d. Fragments of torpedo L. S. 5825, sketch A, figure 4, taken from the English ship *Orange Prince* after being torpedoed by a German submarine.

4th. Detailed drawing of a torpedo found on board H. I. M. S. *Emden* after her capture.

Inclosed with this report are four drawings, figures 1, 2, 3, and 4, on which are shown the places in which certain of the fragments fit. These sketches were made from the detailed drawings of a German torpedo in our possession and from drawings of the torpedo found on the *Emden*.

From the above the following results were obtained:

Fragments Nos. 1 and 2, bronze screw bolts bearing the markings 56K and 58K, respectively; compared absolutely with body screws

employed for joining head of torpedo to main body, as shown in sketch figure 1. Exhibit 1 (a) are two body screws taken from torpedo No. 1804; Exhibit 1 (b) is a body screw taken from torpedo No. 2121.

Fragment No. 3 shows resemblance to the inner seat, water-relief valve of engine valve, as shown by figure 3 of drawings of the *Emden's* torpedo.

Fragments Nos. 4 and 5, pieces of bronze with screw holes and one bearing a small screw, compared with fragments of torpedo L. S. 5825, sketch B, figure 4.

Fragments 7, 8, 9, and 10, pieces of bronze castings, some parts partially machined were identified as part of engine cylinder, as indicated in sketch figure 2.

Fragments Nos. 6 and 12, similar fragments of casting as 7, 8, 9, and 10, could not be positively located, but from the general form, material, and thickness undoubtedly form part of the engine cylinder of a German torpedo.

Fragments Nos. 11, 13, 14, and 15—pieces of steel casing and bearing the red paint common to German torpedoes were identified as fragments of the war head, sketch A, figure 1.

Fragment No. 16, in appearance a piece of bronze stiffening ring or engine frame, compared absolutely with fragment of torpedo No. L. S. 5825, which was a fragment of the steel casing, sketch A, figure 4, containing either part of the engine-room cage or a bronze stiffening frame riveted and soldered to the outer casing. All bronze parts were trimmed and painted identically with Exhibit No. 16.

Consequently, in view of the deductions made in our report of April 1, 1916, whereby the possibility of the explosion on board the *Sussex* having been caused by a mine was eliminated, and after due consideration of the above, we form the conclusion that the explosive engine which came into contact with the steamship *Sussex* at 2.50 p. m. March 24 was a German torpedo.

We have the honor, etc.

W. R. SAYLES,
Lieut. Commander, U. S. Navy.
JAMES A. LOGAN, JR.,
Major, Q. M. C., U. S. Army.
B. L. SMITH,
First Lieutenant, U. S. M. C.

Ambassador Sharp to the Secretary of State.

No. 3154.]

AMERICAN EMBASSY,
Paris, May 4, 1916.

SIR: With reference to my dispatches and telegrams concerning the *Sussex*, I have the honor to inclose herewith, in copy and translation, the report of the French commission which examined the fragments of the torpedo found upon the steamer in question. This report, which was sent to me by the Minister for Foreign Affairs, is a confirmation of the conclusions reached by Commander Sayles, Maj. Logan, and Lieut. Smith in their independent investigation of the cause of the disaster to the *Sussex*.

I have, etc.,

For the Ambassador:

ROBERT WOODS BLISS.

[Inclosure—Translation.]

REPORT OF THE COMMISSION CHARGED WITH THE EXAMINATION OF THE
FRAGMENTS OF THE TORPEDO FOUND ON BOARD THE "SUSSEX"—
DATE OF THE REPORT: APRIL 15, 1916.

In continuation of a ministerial dispatch of April 11, 1916, a commission composed of Messrs. Amiot, naval commander; Dupont, naval constructor; Stroch, naval constructor, sat for the purpose of examining the fragments of the torpedo found on board the *Sussex*.

In the first place the commission believes that all of the fragments which were presented to it are actually parts of a torpedo; there can only be doubt regarding three fragments of very thin sheet iron.

The commission has compared the fragments with pieces of the German torpedo No. 1804. The commission is of the opinion that the fragments are parts of a German torpedo, but of a slightly different model, doubtless a later model; but in every factory some details of construction are maintained from one model to another and preserve a characteristic appearance.

We have numbered the most noteworthy fragments from 1 to 6.

1. *Screw bolt*.—We found in the German torpedo No. 1804 the same screw bolt amongst the screw bolts of the head of the torpedo, with the same marking (K. Kopf, head) and the same number (6). It is the most characteristic piece.

The commission does not know of any other Navy than the German Navy in which the screw bolts of the different removable parts of the

torpedo are marked with a serial number. The mark No. 6 K. stamped on piece No. 1 indicates without doubt that it refers to the screw bolt No. 6 of the head of a German torpedo.

The commission adds to the fragments submitted to its examination the screw bolt No. 6 of the cone of the torpedo No. 1804 (longitudinal screw bolt), and as an example of the methods of marking the screw bolt No. 2 of the head of the same torpedo.

2 and 3. *Valve chest*.—The screw thread was identified with that of the screw plugs of the valve chest of the German torpedo No. 1804; the differences which exist between pieces Nos. 2 and 3 and the corresponding parts of the torpedo No. 1804 may arise from differences in the model of the torpedo.

4 and 5. *Bottom and sides of the cylinder*.—The form, the curves and the thickness are very nearly the same as those of the corresponding pieces of the torpedo No. 1804. In any case they are certainly fragments of the cylinder of the motor of an automobile torpedo.

6. *Fragment of a casing*.—One of the screws which fitted into it has been lost. The fragment is rather formless; nevertheless it corresponds well, as far as construction is concerned, and particularly as far as means of fixing is concerned, to engine-room casing of the motor.

To sum up:

Piece No. 1 is doubtless the bolt screw No. 6 of the head of a German torpedo; pieces 2 and 3 are probably fragments of the valve chest of an automobile torpedo; note that the threading is identical with that of the seat of the plugs of the valve chest of the German torpedo No. 1804.

Pieces 4 and 5 are certainly fragments of the bottom and the walls of the cylinder of the motor of an automobile torpedo, which can be found in the German torpedo No. 1804.

Piece No. 6 can not be definitely located; nevertheless, in thickness, aspect, and the screw holes which are found in it, it corresponds well with part of the casing of the engine.

With the exception of the three fragments of sheet iron all the other unnumbered débris seem to originate from an automobile torpedo.

The commission adds to its present report a plan of the engine of the German torpedo No. 1804, on which it has marked the probable origin of fragments Nos. 2, 3, 4, and 5.

The members of the commission:
The Naval Commander,
President: AMIOT.

DUPONT.
STROCH.

2. CORRESPONDENCE WITH AUSTRIA-HUNGARY REGARDING SUBMARINE INTERFERENCES WITH COMMERCIAL VESSELS.

The Secretary of State to Ambassador Penfield.

DEPARTMENT OF STATE,
WASHINGTON, December 6, 1915.

Please deliver a note to the Minister of Foreign Affairs, textually as follows:

Reliable information obtained from American and other survivors who were passengers on the steamship *Ancona* shows that on November 7 a submarine flying the Austro-Hungarian flag fired a solid shot toward the steamship; that thereupon the *Ancona* attempted to escape, but being overhauled by the submarine she stopped; after that a brief period and before the crew and passengers were all able to take to the boats the submarine fired a number of shells at the vessel and finally torpedoed and sank her while there were yet many persons on board; and that by gunfire and foundering of the vessel a large number of persons lost their lives or were seriously injured, among whom were citizens of the United States.

The public statement of the Austro-Hungarian Admiralty has been brought to the attention of the Government of the United States and received careful consideration. This statement substantially confirms the principal declaration of the survivors, as it admits that the *Ancona* after being shelled was torpedoed and sunk while persons were still on board.

The Austro-Hungarian Government has been advised, through the correspondence which has passed between the United States and Germany, of the attitude of the Government of the United States as to the use of submarines in attacking vessels of commerce, and the acquiescence of Germany in that attitude, yet with full knowledge on the part of the Austro-Hungarian Government of the views of the Government of the United States as expressed in no uncertain terms to the ally of Austria-Hungary, the commander of the submarine which attacked the *Ancona* failed to put in a place of safety the crew and passengers of the vessel which they purposed to destroy because, it is presumed, of the impossibility of taking it into port as a prize of war.

The Government of the United States considers that the commander violated the principles of international law and of humanity by shelling and torpedoing the *Ancona* before the persons on board had been put in a place of safety or even given sufficient time to leave the vessel. The

conduct of the commander can only be characterized as wanton slaughter of defenseless non-combatants, since at the time when the vessel was shelled and torpedoed she was not, it appears, resisting or attempting to escape; and no other reason is sufficient to excuse such an attack, not even the possibility of rescue.

The Government of the United States is forced, therefore, to conclude either that the commander of the submarine acted in violation of his instructions or that the Imperial and Royal Government failed to issue instructions to the commanders of its submarines in accordance with the law of nations and the principles of humanity. The Government of the United States is unwilling to believe the latter alternative and to credit the Austro-Hungarian Government with an intention to permit its submarines to destroy the lives of helpless men, women, and children. It prefers to believe that the commander of the submarine committed this outrage without authority and contrary to the general or special instructions which he had received.

As the good relations of the two countries must rest upon a common regard for law and humanity, the Government of the United States can not be expected to do otherwise than to demand that the Imperial and Royal Government denounce the sinking of the *Ancona* as an illegal and indefensible act; that the officer who perpetrated the deed be punished; and that reparation by the payment of an indemnity be made for the citizens of the United States who were killed or injured by the attack on the vessel.

The Government of the United States expects that the Austro-Hungarian Government, appreciating the gravity of the case, will accede to its demand promptly; and it rests this expectation on the belief that the Austro-Hungarian Government will not sanction or defend an act which is condemned by the world as inhumane and barbarous, which is abhorrent to all civilized nations, and which has caused the death of innocent American citizens.

LANSING.

Ambassador Penfield to the Secretary of State.

[Telegram.]

AMERICAN EMBASSY,
Vienna, December 15, 1915.

Department's 1011, December 6, 6 p. m.

Following note received from Minister for Foreign Affairs noon to-day:

In reply to the much esteemed note number 4167, which His Excellency, Mr. Frederic Courtland Penfield, Ambassador Extraordinary and Plenipotentiary of the United States of America, directed to him in the name of the American Government under date of the 9th instant

in the matter of the sinking of the Italian steamer *Ancona*, the undersigned, preliminary to a thorough, meritorious treatment of the demand, has the honor to observe that the sharpness with which the Government of the United States considers it necessary to blame the commanding officer of the submarine concerned in the affair and the firmness in which the demands addressed to the Imperial and Royal Government appear to be expressed might well have warranted the expectation that the Government of the United States should precisely specify the actual circumstances of the affair upon which it bases its case. As is not difficult to perceive, the presentation of the facts in the case in the aforesaid note leaves room for many doubts; and even if this presentation were correct in all points and the most rigorous legal conception were applied to the judgment of the case, it does not in any way sufficiently warrant attaching blame to the commanding officer of the war vessel or to the Imperial and Royal Government.

The Government of the United States has also failed to designate the persons upon whose testimony it relies and to whom it apparently believes it may attribute a higher degree of credibility than to the commander of the Imperial and Royal fleet. The note also fails to give any information whatsoever as to the number, names, and more precise fate of the American citizens who were on board of the said steamer at the critical moment.

However, in view of the fact that the Washington Cabinet has now made a positive statement to the effect that citizens of the United States of America came to grief in the incident in question, the Imperial and Royal Government is in principle ready to enter into an exchange of views in the affair with the Government of the United States. It must, however, in the first place, raise the question why that Government failed to give juridical reasons for the demands set forth in its note with reference to the special circumstances of the incriminating events upon which it itself lays stress, and why, in lieu thereof, it referred to an exchange of correspondence which it has conducted with another Government in other cases. The Imperial and Royal Government is the less able to follow the Washington Cabinet on this unusual path, since it by no means possesses authentic knowledge of all of the pertinent correspondence of the Government of the United States, nor is it of the opinion that such knowledge might be sufficient for it in the present case, which, in so far as it is informed, is in essential points of another nature than the case or cases to which the Government of the United States seems to allude. The Imperial and Royal Government may therefore leave it to the Washington Cabinet to formulate the particular points of law against which the commanding officer of the submarine is alleged to have offended on the occasion of the sinking of the *Ancona*.

The Government of the United States has also seen fit to refer to the attitude which the Berlin Cabinet assumed in the above-mentioned correspondence. The Imperial and Royal Government finds in the much esteemed note no indication whatever of the intent with which

this reference was made. Should, however, the Government of the United States thereby have intended to express an opinion to the effect that a precedent of whatever nature existed for the Imperial and Royal Government with respect to the juridical consideration of the affair in question this Government must, in order to preclude possible misunderstandings, declare that as a matter of course it reserves to itself full freedom of maintaining its own legal views in the discussion of the case of the *Ancona*.

In having the honor to have recourse to the kindness of His Excellency, the Ambassador of the United States of America, with the most respectful request to be good enough to communicate the foregoing to the American Government, and on this occasion to state that the Imperial and Royal Government, in no less degree than the American Government and under all circumstances, most sincerely deplores the fate of the innocent victims of the incident in question, the undersigned at the same time avails himself of this opportunity to renew the expression of his most distinguished consideration to His Excellency, the ambassador.

(Signed.) BURIAN.
 PENFIELD.

The Secretary of State to Ambassador Penfield.

[Telegram.]

No. 1039.]

DEPARTMENT OF STATE,
Washington, December 19, 1915.

You are instructed to address a note to the Austro-Hungarian Minister of Foreign Affairs, textually as follows:

The Government of the United States has received the note of Your Excellency relative to the sinking of the *Ancona*, which was delivered at Vienna on December 15, 1915, and transmitted to Washington, and has given the note immediate and careful consideration.

On November 15, 1915, Baron Zwiedenek, the Chargé d'Affaires of the Imperial and Royal Government at Washington, transmitted to the Department of State a report of the Austro-Hungarian Admiralty with regard to the sinking of the steamship *Ancona*, in which it was admitted that the vessel was torpedoed after her engines had been stopped and when passengers were still on board. This admission alone is, in the view of the Government of the United States, sufficient to fix upon the commander of the submarine which fired the torpedo the responsibility for having wilfully violated the recognized law of nations and entirely disregarded those humane principles which every belligerent should observe in the conduct of war at sea. In view of these admitted circumstances

the Government of the United States feels justified in holding that the details of the sinking of the *Ancona*, the weight and character of the additional testimony corroborating the Admiralty's report, and the number of Americans killed or injured are in no way essential matters of discussion. The culpability of the commander is in any case established, and the undisputed fact is that citizens of the United States were killed, injured, or put in jeopardy by his lawless act.

The rules of international law and the principles of humanity which were thus wilfully violated by the commander of the submarine have been so long and so universally recognized and are so manifest from the standpoint of right and justice that the Government of the United States does not feel called upon to debate them and does not understand that the Imperial and Royal Government questions or disputes them.

The Government of the United States therefore finds no other course open to it but to hold the Imperial and Royal Government responsible for the act of its naval commander and to renew the definite but respectful demands made in its communication of the 6th of December, 1915. It sincerely hopes that the foregoing statement of its position will enable the Imperial and Royal Government to perceive the justice of those demands and to comply with them in the same spirit of frankness and with the same concern for the good relations now existing between the United States and Austria-Hungary which prompted the Government of the United States to make them.

LANSING.

Ambassador Penfield to the Secretary of State.

[Telegram.]

AMERICAN EMBASSY,
Vienna, December 29, 1915.

The following reply to my note of the 21st instant, communicating textually the contents of the Department's telegram No. 1039 of December 19th, 1 p. m., was received this afternoon.

[Translation.]

In reply to the very esteemed note No. 4307, of the 21st instant, the undersigned has the honor most respectfully to communicate to His Excellency the Ambassador of the United States of America, Mr. Frederic Courtland Penfield, the following:

The Imperial and Royal Government thoroughly agrees with the Washington Cabinet that even in war the sacred demands of humanity must be complied with. Just as it has hitherto never given anyone

occasion to doubt its respect for these demands, it has also given numerous proofs of its most humane sentiments, both toward enemies and neutrals, throughout the entire course of this war, which is presenting such convulsive pictures of moral confusion, and it was not its fault that not long ago it did not agree with the Washington Cabinet on a question which it, in unison with the entire public opinion in Austria-Hungary, regarded principally as a question of humanity.

Also as concerns the principle expressed in the very esteemed note that hostile private ships, in so far as they do not flee or offer resistance, may not be destroyed without the persons on board having been placed in safety, the Imperial and Royal Government is able substantially to assent to this view of the Washington Cabinet.

The Imperial and Royal Government is very responsive to the assurance that the Government of the United States attaches value to the maintenance of the good relations which happily exist between Austria-Hungary and the United States of America; it reciprocates this assurance most warmly and is now as ever, as far as lies within its power, zealous to render these relations still more cordial.

Guided by the same spirit of candor as is the American Government, the Imperial and Royal Government, although it does not find in the aforesaid note a reply to all of its justified questions, is ready to communicate to the Government of the United States the result of the investigation which was instituted, in accordance with the existing internal regulations, immediately after the receipt of the naval report on the sinking of the *Ancona* and which has been very recently concluded. The results of this investigation may be summarized as follows:

On November 7, 1915, at 11.40 a. m., in thick weather, the commander of the submarine saw the outlines of a large Italian steamer suddenly emerge from the fog one point to the starboard at a distance of about 3,000 meters, in latitude 38 degrees, 40 minutes North and longitude 10 degrees, 8 minutes East. He first took it for a transport steamer and put about and then fired a wide warning shot from the after gun; at the same time he displayed the signal "leave the ship." The steamer did not stop, but on the contrary turned away and attempted to escape. The commander at first remained stationary several minutes in order to increase the distance, as he feared that the steamer might have a stern gun and use it against the submarine. When the distance had increased to 4,500 meters, he took up the pursuit at full power and fired from the bow gun 16 shells at decreasing range and observed three hits. During the pursuit the steamer steered a zigzag course and did not stop until after the third hit. Thereupon the commander ceased firing. Even during the flight the steamer while at full speed dropped several boats with people, which immediately capsized; after stopping it began to rig out the boats. At a distance of about 2,000 meters the commander saw that six boats were completely filled and rapidly pulled away from the steamer. Another boat had capsized and was floating keel upward; the people were hanging on to the lines and to the capsized

boat. During the further approach of the submarine the commander saw that great panic was prevailing on board and that he was dealing with a passenger steamer, viz, the *Ancona*, of Genoa. He therefore accorded the people on board of the steamer more than the necessary time for leaving the ship in the lifeboats. There were still on board at least 10 lifeboats, which would have more than sufficed for the rescue of the people still on board. One of these boats was completely filled and hung on the half-rigged out boat davits. As no further measures were being taken to rig out the boats, the commander decided after the lapse of 45 minutes to torpedo the ship in such a way that it would still remain above water for a considerable length of time so that, on the one hand, the rigging out of the boats would be accelerated and, on the other hand, sufficient opportunity would remain for rescuing the people still on board.

Shortly thereafter a steamer was sighted heading for the *Ancona* developing a great amount of smoke and which apparently had been summoned to the *Ancona* by radio telegraphy. As the commander of the submarine had to count upon an attack from the steamer, which he took to be an enemy cruiser, he submerged after having had a torpedo launched at 12.35 p. m. from a distance of 800 meters at the forehold of the *Ancona*. After that torpedo shot the latter listed about 10 degrees to starboard. At this time an attempt was made to completely lower the half-rigged-out lifeboat; it carried away, however, and fell into the water. The boat remained afloat, keel downward, and the people clung to the gunwale. None of the remaining boats were lowered to the water, although people were still seen on board. The steamer gradually righted itself to an even keel and sank so slowly that the commander of the submarine at first doubted whether the steamer would go down; as late as 1.20 it sank, bow first, after slowly submerging parallel to the water line. During this further period of 45 minutes it would have been easily possible to rescue by means of the available boats persons still on board. From the circumstances that, contrary to expectations, this did not happen, commander concluded that, contrary to all seamanlike custom, the crew had effected their own rescue in the first boats and left the passengers intrusted to their protection to themselves.

At the time of the incident the weather was good and the sea was smooth, so that the lifeboats could have reached the nearest coast without danger, as in fact lifeboats were damaged only through inexpert lowering but not after reaching the water. The loss of human lives is in no way to be attributed in the first instance to the sinking of the ship, but—and according to all probability in a much higher degree—to the dropping of the first boats while under way at full speed, as well as to the fact that the crew, thinking only of themselves, did not rescue the passengers of the capsized boats and also possibly to the projectiles which struck the fleeing ship. But also the death of the persons who went down with the steamer is above all to be attributed to the conduct of the crew, which was contrary to the requirements of their duty.

As is apparent from above-cited facts of the case, the very esteemed note of the 9th instant proceeds in several points from incorrect assumptions. The information reaching the American Government that a solid shot was immediately fired toward the steamer is incorrect. It is incorrect that the submarine overhauled the steamer during the pursuit. It is incorrect that only a brief period was accorded for the disembarkation of the people; to the contrary an unusually long time was given the *Ancona* for the disembarkation of the passengers. Finally, it is incorrect that a number of shells were still fired at the steamer after it had stopped.

The facts in the case further permit it to be recognized that the commander of the submarine granted the steamer full 45 minutes; that is more than sufficient time to afford the persons on board opportunity for disembarkation. Then when the people had still not been rescued he effected the torpedoing in such a way that the ship would remain above water as long a time as possible; this with the intention of enabling the disembarkation in the boats still available. As the steamer remained above water 45 minutes more he would indeed have accomplished this purpose if the crew had not in violation of their duty left the passengers in the lurch.

Notwithstanding all appreciation of this procedure of their commander aiming at the rescue of the crew and passengers, the Imperial and Royal naval authorities came to the conclusion that he had failed to take into sufficient consideration the panic which occurred amongst the passengers rendering the embarkation more difficult and the spirit of the regulation that Imperial and Royal naval officers should not refuse help to anyone in distress, not even to the enemy. Hence the officer has been punished in accordance with the rules in force in this matter for exceeding his instructions.

In this state of affairs the Imperial and Royal Government does not hesitate to draw the appropriate conclusions with reference to the indemnification of the American citizens affected by the sinking of the prize.

In this respect it must however make the following observations: As a matter of course the investigation into the sinking of the *Ancona* could not establish to what degree American citizens are entitled to a claim for indemnity. Even according to the view of the Washington Cabinet, the Imperial and Royal Government can not be held answerable for the injuries which were caused by the undoubtedly justified firing upon the fleeing ship. Just as little might it have to answer for the injuries which occurred before the torpedoing due to the faulty rigging out of the boats or to the capsizing of the boats which had been lowered.

The Imperial and Royal Government must assume that the Washington Cabinet is able and willing to furnish it with the information which is required in this respect and which is certainly not immaterial. However should the more precise circumstances under which the American citizens were injured be unknown to the Government of the United

States due to a lack of the proper material evidence, the Imperial and Royal Government in consideration of the humanely deeply deplorable incident and guided by the desire of again manifesting to the Government of the United States its friendly sentiments, would be readily willing to overlook this gap in the evidence and to extend the indemnity also to those injuries the direct cause of which could not be ascertained.

While the Imperial and Royal Government may well regard the *Ancona* case as cleared up by the foregoing representations it, at the same time, reserves to itself for a future time the discussion of the difficult questions of international law in connection with submarine warfare.

The undersigned has the honor to have recourse to the kindness of His Excellency the Ambassador of the United States of America with the most respectful request that he be good enough to communicate the foregoing to the Government of the United States and at the same time avails himself, etc.

BURIAN.
PENFIELD.

The Secretary of State to Ambassador Penfield.

[Telegram—Paraphrase.]

DEPARTMENT OF STATE,
Washington, April 17, 1916.

Mr. Lansing informs Mr. Penfield that the Department has been informed that the Russian bark *Imperator* while bound from Gulfport, Miss., to Marseille, France, with a lumber cargo, was destroyed by an Austrian submarine off the Spanish coast of the Mediterranean near the Columbretes Islands on April 11. There were two American citizens on board the vessel, one of whom was wounded during the attack. Mr. Penfield is instructed to lay the above facts before the Foreign Office and to state that a prompt report is expected from the Austrian Government.

Ambassador Penfield to the Secretary of State

[Telegram—Paraphrase.]

AMERICAN EMBASSY,
Vienna, May 3, 1916.

Mr. Penfield reports statement by the Austrian Ministry of Foreign Affairs to the effect that an Austrian submarine on the morning of

April 11, 1916, stopped a schooner bark about 27 nautical miles east of the Columbretes Islands by a warning shot fired across the schooner's bow at about 5,000 meters distance. In answer to the signal "Show your flag" the Russian flag was displayed, and in reply to the signal "Quit the ship immediately" it was observed that no attempt was made to launch boats nor was any sail removed. When it was seen that no preparation was being made to quit the ship the Austrian submarine approached quite slowly to a distance of 400 meters and, after waiting at that distance for some time, fired a second shot through the rigging of the schooner. There elapsed between the first and the second shot the space of at least half an hour. The crew left the ship immediately after the second shot, rowing toward the submarine in two boats. There were in the boats two men who were slightly wounded, evidently by wood splinters or by pieces from shell. One of these men, according to his statement, a Norwegian, with a slight head wound and with the first joint of his right thumb torn off, and another, a Russian Finn, with a slight flesh wound in the upper thigh, were treated on board the submarine and then returned to their boats, which the submarine took in tow because of their smallness and towed toward the Columbretes Islands in a westerly direction until the *Barendrecht*, a Dutch tank steamer en route to Barcelona was sighted about 3 p. m. and asked to take the men on board. There was, according to the ship's papers, only one American citizen, viz, Eineraxel Swenson, on board.

The commander of the submarine boat has no knowledge of his being wounded, but, if, to the regret of the Austro-Hungarian authorities, this should prove to be the fact, it can only be explained by the fact that the bark failed to comply with the submarine's challenge to stop when ordered.

The Secretary of State to Ambassador Penfield.

[Telegram.]

DEPARTMENT OF STATE,
Washington, June 21, 1916.

Evidence obtained from the captain and members of crew of the steamer *Petrolite*, and from examination made of the vessel under direction of the Navy Department, convinces this Government that the Austro-Hungarian Government has obtained an incorrect report of the

attack on the steamer. With particular reference to the explanation made by the Foreign Office, the following information, briefly stated, has been obtained from sworn statements of the captain and members of crew:

No shot was fired across the bow of the steamer as a signal to stop. When the first shot was fired the captain was under the impression that an explosion had taken place in the engine room. Not until the second shot was fired did the captain and crew sight the submarine, which was astern of the steamer and therefore they positively assert that neither the first nor the second shot was fired across the bow of the vessel.

The steamer did not swing around in a course directed toward the submarine as alleged in the report obtained by the Austro-Hungarian Government, but the captain at once stopped the engines and swung the vessel broadside to the submarine and at right angles to the course of the vessel, in order to show its neutral markings, which was manifestly the reasonable and proper course to follow, and it ceased to make any headway. On the steamer was painted its name in letters approximately 6 feet long, and the name of the hailing port, and, as has previously been made known to Austro-Hungarian Government, the steamer carried two large flags some distance above the water line which it is positively stated by the officers and crew were flying before the first shot was fired, and were not hoisted after the first shot, as stated by the submarine commander.

The submarine commander admits that the steamer stopped her engines. The captain of the *Petrolite* denies that the vessel was ever headed toward the submarine, and the examination of the steamer made by an American naval constructor corroborates this statement, because, as he states, the shell which took effect on vessel, striking the deck-house which surrounds the smokestack, was fired from a point 45 degrees on the starboard bow. This was one of the last shots fired and indicates that ship was not headed toward the submarine even up to the time when the submarine ceased firing. The captain states that the submarine appeared to be maneuvering so as to direct her shots from ahead of the steamer. The submarine fired approximately 12 shots. The majority of the shots were fired after the ship had stopped and had swung broadside, and while, even as the commander of submarine admits, the steamer was flying the American flag. The captain of the steamer denies that he advised the commander of the submarine that the damage to the steamer was insignificant. He states that he advised

him that steamer had been damaged, but that he not then had an opportunity to ascertain the extent of the damage. The seaman who was struck by a fragment of shell sustained severe flesh wounds.

If the ship had intended to ram the submarine, she would not have stopped her engines and this must have been evident to the submarine commander. Naval authorities here agree that there could have been no danger of the ship ramming the submarine until it was headed straight for the submarine and was under power, and even then the submarine could have so maneuvered as to avoid collision. The *Petrolite* was 2 miles away from the submarine. The engines and funnel of the *Petrolite* were at the stern, and from the general appearance of the ship no experienced naval officer could have believed that it had opportunity or sufficient speed to attack even if it had been steaming directly toward the submarine. The conduct of the submarine commander showed lack of judgment, self-control, or wilful intent amounting to utter disregard of the rights of a neutral.

According to the sworn statements of the captain of the steamer and a seaman who accompanied him to the submarine, the commander of the latter stated that he mistook the steamer for a cruiser. This statement is at variance with the statement in the Austro-Hungarian Government's note that the captain of the submarine asserted a false maneuver on the part of the steamer prompted the submarine to continue to fire.

The captain of the steamer swears that he informed the commander of the submarine that he had only sufficient provisions to reach the port of Algiers, and that he would deliver provisions only under compulsion. He states positively in his affidavit and in conversation with officials of the Department that he did not give provisions readily nor did he say it was the duty of one seaman to help another, and that he refused payment because he felt that he was being compelled to deliver food in violation of law. The statement of the captain of the *Petrolite* is entirely at variance with the report of the submarine commander. The correctness of the captain's opinion that the wounded seaman was held as a hostage to guarantee the delivery of food seems clear. Obviously the commander of the submarine had no right to order the seaman to remain on board. The fact that this order was given showed that the commander insisted that food was to be delivered to him, otherwise the seaman would naturally have accompanied the captain back to his vessel. The outrageous conduct of the submarine commander and all the circumstances of the attack on the *Petrolite* warranted the captain

in regarding himself as being compelled in order to avoid further violence to deliver food to the commander of the submarine.

In the absence of other and more satisfactory explanation of the attack on the steamer than that contained in the note addressed to you by the Foreign Office, the Government of the United States is compelled to regard the conduct of the commander of the submarine in attacking the *Petrolite* and in coercing the captain as a deliberate insult to the flag of the United States and an invasion of the rights of American citizens for which this Government requests that an apology be made; that the commander of the submarine be punished; and that reparation be made for the injuries sustained, by the payment of a suitable indemnity.

Please communicate with Foreign Office in sense of foregoing.

You may add that this Government believes that the Austro-Hungarian Government will promptly comply with these requests, in view of their manifest justness and the high sense of honor of that Government which would not, it is believed, permit an indignity to be offered to the flag of a friendly power or wrongs to its nationals by an Austro-Hungarian naval officer without making immediate and ample amends.

LANSING.

3. CORRESPONDENCE REGARDING WARFARE BETWEEN SUBMARINES AND ARMED MERCHANT VESSELS.

*Informal and confidential letter from the Secretary of State to the British Ambassador.*¹

DEPARTMENT OF STATE,
Washington, January 18, 1916.

MY DEAR MR. AMBASSADOR: It is matter of the deepest interest to my Government to bring to an end, if possible, the dangers to life which attend the use of submarines as at present employed in destroying enemy commerce on the high seas, since on any merchant vessel of belligerent nationality there may be citizens of the United States who have taken passage or are members of the crew, in the exercise of their recognized rights as neutrals. I assume that your excellency's Government are equally solicitous to protect their nationals from the exceptional hazards which are presented by their passage on a merchant vessel through those portions of the high seas in which undersea craft of their enemy are operating.

While I am fully alive to the appalling loss of life among noncombatants, regardless of age or sex, which has resulted from the present method of destroying merchant vessels without removing the persons on board to places of safety, and while I view that practice as contrary to those humane principles which should control belligerents in the conduct of their naval operations, I do not feel that a belligerent should be deprived of the proper use of submarines in the interruption of enemy commerce since those instruments of war have proven their effectiveness in this particular branch of warfare on the high seas.

In order to bring submarine warfare within the general rules of international law and the principles of humanity without destroying its efficiency in the destruction of commerce, I believe that a formula may be found which, though it may require slight modifications of the practice generally followed by nations prior to the employment of sub-

¹ Same, *mutatis mutandis*, to the Ambassador of France, the Russian Ambassador, the Ambassador of Italy, the Belgian Minister, and, on January 24, 1916, to the Japanese Ambassador.

marines, will appeal to the sense of justice and fairness of all the belligerents in the present war.

Your excellency will understand that in seeking a formula or rule of this nature I approach it of necessity from the point of view of a neutral, but I believe that it will be equally efficacious in preserving the lives of all noncombatants on merchant vessels of belligerent nationality.

My comments on this subject are predicated on the following propositions:

1. A noncombatant has a right to traverse the high seas in a merchant vessel entitled to fly a belligerent flag and to rely upon the observance of the rules of international law and principles of humanity if the vessel is approached by a naval vessel of another belligerent.

2. A merchant vessel of enemy nationality should not be attacked without being ordered to stop.

3. An enemy merchant vessel, when ordered to do so by a belligerent submarine, should immediately stop.

4. Such vessel should not be attacked after being ordered to stop unless it attempts to flee or to resist, and in case it ceases to flee or resist, the attack should discontinue.

5. In the event that it is impossible to place a prize crew on board of an enemy merchant vessel or convoy it into port, the vessel may be sunk, provided the crew and passengers have been removed to a place of safety.

In complying with the foregoing propositions which, in my opinion, embody the principal rules, the strict observance of which will insure the life of a noncombatant on a merchant vessel which is intercepted by a submarine, I am not unmindful of the obstacles which would be met by undersea craft as commerce destroyers.

Prior to the year 1915 belligerent operations against enemy commerce on the high seas had been conducted with cruisers carrying heavy armaments. Under these conditions international law appeared to permit a merchant vessel to carry an armament for defensive purposes without losing its character as a private commercial vessel. This right seems to have been predicated on the superior defensive strength of ships of war, and the limitation of armament to have been dependent on the fact that it could not be used effectively in offense against enemy naval vessels, while it could defend the merchantmen against the generally inferior armament of piratical ships and privateers.

The use of the submarine, however, has changed these relations. Comparison of the defensive strength of a cruiser and a submarine shows that

the latter, relying for protection on its power to submerge, is almost defenseless in point of construction. Even a merchant ship carrying a small caliber gun would be able to use it effectively for offense against a submarine. Moreover, pirates and sea rovers have been swept from the main trade channels of the seas, and privateering has been abolished. Consequently, the placing of guns on merchantmen at the present day of submarine warfare can be explained only on the ground of a purpose to render merchantmen superior in force to submarines and to prevent warning and visit and search by them. Any armament, therefore, on a merchant vessel would seem to have the character of an offensive armament.

If a submarine is required to stop and search a merchant vessel on the high seas and, in case it is found that she is of enemy character and that conditions necessitate her destruction, to remove to a place of safety all persons on board, it would not seem just or reasonable that the submarine should be compelled, while complying with these requirements, to expose itself to almost certain destruction by the guns on board the merchant vessel.

It would, therefore, appear to be a reasonable and reciprocally just arrangement if it could be agreed by the opposing belligerents that submarines should be caused to adhere strictly to the rules of international law in the matter of stopping and searching merchant vessels, determining their belligerent nationality, and removing the crews and passengers to places of safety before sinking the vessels as prizes of war, and that merchant vessels of belligerent nationality should be prohibited and prevented from carrying any armament whatsoever.

In presenting this formula as a basis for conditional declarations by the belligerent Governments, I do so in the full conviction that your Government will consider primarily the humane purpose of saving the lives of innocent people rather than the insistence upon a doubtful legal right which may be denied on account of new conditions.

I would be pleased if you would be good enough to bring this suggestion to the attention of your Government and inform me of their views upon the subject, and whether they would be willing to make such a declaration conditioned upon their enemies making a similar declaration.

A communication similar to this one has been addressed to the Ambassadors of France, Russia, and Italy, and the Minister of Belgium at this capital.

I should add that my Government is impressed with the reasonable-

ness of the argument that a merchant vessel carrying an armament of any sort, in view of the character of submarine warfare and the defensive weakness of undersea craft, should be held to be an auxiliary cruiser and so treated by a neutral as well as by a belligerent Government, and is seriously considering instructing its officials accordingly.

I am, etc.,

ROBERT LANSING.

Ambassador Penfield to the Secretary of State.

[Extract.]

No. 1293.]

AMERICAN EMBASSY,
Vienna, February 12, 1916.

SIR: I have the honor to transmit herewith inclosed a copy, with translation, of a circular note verbale, dated the 10th instant, from the Austro-Hungarian Ministry of Foreign Affairs, as communicated in my telegram of that date, No. 1144, announcing that orders had been issued to the Austro-Hungarian naval forces to treat all merchant vessels armed with cannon as vessels of war.

This announcement, which was made simultaneously with a similar one by the German Government, has been received with general approval by the entire newspaper press in the Monarchy.

I have, etc.,

FREDERIC C. PENFIELD.

[Inclosure—Translation.]

No. 14061/7 1916]

IMPERIAL AND ROYAL
MINISTRY OF FOREIGN AFFAIRS,
Vienna, February 10, 1916.

CIRCULAR NOTE VERBALE.

The Governments of the neutral powers are aware that in the course of the year 1913 the British Admiralty caused a number of large English merchant vessels to be armed. As was announced on the 26th of March, 1913, in the House of Commons by the First Lord of the Admiralty, the armament of the said steamers was to protect them against the dangers from enemy vessels transformed into auxiliary cruisers and at the same time to serve only for defense.

The experiences gained during the course of the present war show that

a considerable number of British merchant steamers have made use of guns placed on board them against hostile war vessels, and that not only with the intention of resisting the legitimate exercise of the right of capture but also of attacking and destroying hostile war vessels.

As appears from a memorandum transmitted by the Imperial German Government to the neutral powers under to-day's date, instructions have been found on board English steamers proving that the Royal British Government themselves have incited their merchant vessels to these illegal acts, and that in direct contradiction of the assurances given to the Department of State at Washington.

The example of Great Britain has been followed during the course of the hostilities by her allies, especially by France and by Italy.

Without desiring to enter into an investigation of the strange claim put forward by the Royal British Government, according to which the merchant vessels, armed by the said Government, preserved their in-offensive character, whereas a merchant vessel armed by an enemy is to be considered by the English naval forces as an auxiliary cruiser, the Imperial and Royal Government limit themselves to stating that all merchant ships armed with cannon, for whatever purpose, by this very fact lose the character of peaceable vessels.

Under these conditions orders have been given to the Austro-Hungarian naval forces to treat such ships as belligerent vessels, an order which, however, will not be put into execution until the 29th of February, 1916.

This delay is granted in the interest of the neutral powers, to the end that they may preserve their nationals from the danger to which they expose themselves by entrusting their persons and goods to armed merchant vessels of the states at war with Austria-Hungary and may also warn those of their nationals who find themselves already on board the vessels of the category indicated.

To the Embassy of the United States of America, Vienna.

Ambassador Gerard to the Secretary of State.

No. 2451.]

AMERICAN EMBASSY,
Berlin, February 14, 1916.

SIR: I have the honor to transmit to you herewith three copies of the memorandum of the Imperial German Government on the treatment

of armed merchantmen, dated February 8, 1916, which formed the subject of my telegrams No. 3467, of the 9th, and No. 3474, of the 10th instant. There are likewise inclosed a translation of the text of the memorandum and a copy and translation of the note verbale from the Imperial Foreign Office, dated February 10, 1916, with which the memorandum was transmitted to me,

I have, etc.,

JAMES W. GERARD.

[Inclosure 1—Translation.]

III a 1909.
26921.

FOREIGN OFFICE,
Berlin, February 10, 1916.

NOTE VERBALE.

The Foreign Office has the honor to transmit herewith to the embassy of the United States of America three copies of a memorandum of the Imperial German Government on the treatment of armed merchantmen, with inclosures, and to request that the embassy be good enough to bring the essential contents of the memorandum to the knowledge of its Government by telegraph, informing it at the time that the order to the German naval forces mentioned in Section IV, No. 1, of the memorandum will not be carried into effect until the 29th instant, in the interest of neutrals already on board armed merchant vessels.

[Inclosure 2—Translation.]

MEMORANDUM OF THE IMPERIAL GERMAN GOVERNMENT ON THE
TREATMENT OF ARMED MERCHANTMEN.

I.

1. Even before the outbreak of the present war the British Government had given English shipping companies the opportunity to arm their merchant vessels with guns. On March 26, 1913, Winston Churchill, then First Lord of the Admiralty, made the declaration in the British Parliament (Exhibit 1) that the Admiralty had called upon the shipowners to arm a number of first-class liners for protection against danger menaced in certain cases by fast auxiliary cruisers of other powers; the liners were not, however, to assume the character of auxiliary cruisers themselves. The Government desired to place at the disposal of the shipowners the necessary guns, sufficient ammunition, and suitable personnel for the training of the gun crews.

2. The English shipowners have readily responded to the call of the Admiralty. Thus Sir Owen Philipps, president of the Royal Mail Steam Packet Company, was able to inform the stockholders of his company in May, 1913, that the larger steamers of the company were equipped with guns; furthermore, the British Admiralty published in January, 1914, a list, according to which 29 steamers of various English lines carried guns aft.

3. As a matter of fact, German cruisers ascertained soon after the outbreak of the war that English liners were armed. For example, the steamer *La Correntina*, of the Houlder Line, of Liverpool, which was captured by the German auxiliary cruiser *Kronprinz Friedrich Wilhelm* on October 7, 1914, had two 4.7-inch guns aft. On February 1, 1915, a German submarine was shelled in the Channel by an English yacht.

II.

1. With regard to the legal character of armed merchantmen in international law, the British Government has taken the position in respect of its own merchantmen that such vessels retain the character of peaceable merchant vessels as long as they carry the arms for defensive purposes only. In accordance with this, the British Ambassador at Washington, in a note dated August 25, 1914 (Exhibit 2), gave the American Government the fullest assurances that British merchant vessels were never armed for purposes of attack, but solely for defense, and that they consequently never fire unless first fired upon. On the other hand, the British Government set up the principle for armed vessels of other flags that they are to be treated as war vessels. Number 1 of Order 1 of the Prize Court Rules, promulgated by the Order in Council of August 5, 1914, expressly provides "ship of war shall include armed ship."

2. The German Government has no doubt that a merchantman assumes a warlike character by armament with guns, regardless of whether the guns are intended to serve for defense or attack. It considers any warlike activity of an enemy merchantman contrary to international law, although it accords consideration to the opposite view by treating the crew of such a vessel not as pirates but as belligerents. The details of its position are set forth in the memorandum on the treatment of armed merchantmen in neutral ports (Exhibit 3) communicated to the American Government in October, 1914, the contents of which were likewise communicated to other neutral Powers.

3. Some of the neutral Powers have accepted the position of the

British Government and therefore permitted armed merchantmen of the belligerent Powers to stay in their ports and shipyards without the restrictions which they had imposed on ships of war through their neutrality regulations. Some, however, have taken the contrary view and subjected armed merchantmen of belligerents to the neutrality rules applicable to ships of war.

III.

1. During the course of the war the armament of English merchantmen has been more and more generally carried out. From reports of the German naval forces numerous cases became known in which English merchantmen not only offered armed resistance to the German war vessels, but proceeded to attack them on their own initiative, and in so doing they frequently even made use of false flags. A list of such cases is found in Exhibit 4, which from the nature of the matter can include only a part of the attacks which were actually made. It is also shown by this list that the practice described is not limited to English merchantmen, but is imitated by the merchantmen of England's allies.

2. The explanation of the action of the armed English merchantmen described is contained in Exhibits 5 to 12, which are photographic reproductions of confidential instructions of the British Admiralty found by German naval forces on captured ships. These instructions regulate in detail artillery attack by English merchantmen on German submarines. They contain exact regulations touching the reception, treatment, activity, and control of the British gun crews taken on board merchantmen; for example, the crew are not to wear uniform in neutral ports and thus plainly belong to the British navy. Above all it is shown by the instructions that these armed vessels are not to await any action of maritime war on the part of the German submarines, but are to attack them forthwith. In this respect the following regulations are particularly instructive:

a. The instructions for guidance in the use, care, and maintenance of armament in defensively armed merchant ships (Exhibits 5 and 6) provide in the section headed "Action," in paragraph 4: "It is not advisable to open fire at a range greater than 800 yards unless the enemy has already opened fire." From this it is the duty of the merchantman in principle to open fire without regard to the attitude of the submarine.

b. The instructions regarding submarines applicable to vessels carrying a defensive armament (Exhibits 9 and 10) prescribe under Number 3

"If a submarine is obviously pursuing a ship by day and it is evident to the master that she has hostile intentions, the ship pursued should open fire in self-defense, notwithstanding the submarine may not have committed a definite hostile act such as firing a gun or torpedo." From this also the mere appearance of a submarine in the wake of a merchantman affords sufficient occasion for an armed attack.

In all these orders, which do not apply merely to the zone of maritime war around England, but are unrestricted as regards their validity (see Exhibit 12 for the Mediterranean), the greatest emphasis is laid on secrecy, plainly in order that the action of merchantmen, in absolute contradiction of international law and the British assurances (Exhibit 2) might remain concealed from the enemy as well as the neutrals.

3. It is thus made plain that the armed English merchantmen have official instructions to attack the German submarines treacherously wherever they come near them, that is to say orders to conduct relentless warfare against them. Since England's rules of maritime war are adopted by her allies without question the proof must be taken as demonstrated in respect of the armed merchantmen of the other enemy countries also.

IV.

In the circumstances set forth above enemy merchantmen armed with guns no longer have any right to be considered as peaceable vessels of commerce. Therefore the German naval forces will receive orders, within a short period paying consideration to the interests of the neutrals, to treat such vessels as belligerents.

The German Government brings this status of affairs to the knowledge of the neutral Powers in order that they may warn their nations against continuing to entrust their persons or property to armed merchantmen of the powers at war with the German Empire.

Berlin, February 8, 1916.

EXHIBIT 1.

DECLARATION OF THE FIRST LORD OF THE ADMIRALTY, WINSTON CHURCHILL, AT THE SESSION OF THE BRITISH LOWER HOUSE OF MARCH 26, 1913.

(Parliamentary Debates, Official Report, 3d Session of the 30th Parliament, House of Commons, 1913, Bd. 1 S. 1776 bis 1776.)

I turn to one aspect of trade protection which requires special refer-

ence. It was made clear at the second Hague Conference and the London Conference, that certain of the great Powers have reserved to themselves the right to convert merchant steamers into cruisers, not merely in national harbours, but if necessary on the high seas. There is now good reason to believe that a considerable number of foreign merchant steamers may be rapidly converted into armed ships by the mounting of guns. The sea-borne trade of the world follows well-marked routes upon nearly all of which the tonnage of the British mercantile marine largely predominates. Our food-carrying liners and vessels carrying raw material following these trade routes would in certain contingencies meet foreign vessels armed and equipped in the manner described. If the British ships had no armament, they would be at the mercy of any foreign liner carrying one effective gun and a few rounds of ammunition. It would be obviously absurd to meet the contingency of considerable numbers of foreign armed merchant cruisers on the high seas by building an equal number of cruisers. That would expose this country to an expenditure of money to meet a particular danger, altogether disproportionate to the expense caused to any foreign Power in creating that danger. Hostile cruisers, wherever they are found, will be covered and met by British ships of war, but the proper reply to an armed merchantman is another merchantman armed in her own defense.

This is the position to which the Admiralty have felt it necessary to draw the attention of leading shipowners. We have felt justified in pointing out to them the danger to life and property which would be incurred if their vessels were totally incapable of offering any defense to an attack. The shipowners have responded to the Admiralty invitation with cordiality, and substantial progress has been made in the direction of meeting it by preparing a defensive measure to equip a number of first-class British liners to repel the attack of armed foreign merchant cruisers. Although these vessels have, of course, a wholly different status from that of the regularly commissioned merchant cruisers, such as those we obtain under the Cunard agreement, the Admiralty have felt that the greater part of the cost of the necessary equipment should not fall upon the owners, and we have decided, therefore, to lend the necessary guns, to supply ammunition, and to provide for the training of members of the ship's company to form the guns crews. The owners on their part are paying the cost of the necessary structural conversion, which is not great. The British mercantile marine will, of course, have

the protection of the Royal Navy under all possible circumstances, but it is obviously impossible to guarantee individual vessels from attack when they are scattered on their voyages all over the world. No one can pretend to view these measures without regret, or without hoping that the period of retrogression all over the world which has rendered them necessary, may be succeeded by days of broader international confidence and agreement, than those through which we are now passing.

EXHIBIT 2.

EXTRACT FROM THE OFFICIAL PUBLICATION OF THE STATE DEPARTMENT
OF THE UNITED STATES OF AMERICA.

"European War No. 2, Diplomatic Correspondence with Belligerent Governments Relating to Neutral Rights and Duties." Page 41.¹

The British Ambassador to the Secretary of State.

No. 289.]

BRITISH EMBASSY,
Washington, August 25, 1914.

SIR: With reference to Mr. Barclay's notes Nos. 252 and 259 of the 4th and 9th of August, respectively, fully explaining the position taken up by His Majesty's Government in regard to the question of armed merchantmen, I have the honour, in view of the fact that a number of British armed merchantmen will now be visiting United States ports, to reiterate that the arming of British merchantmen is solely a precautionary measure adopted for the purpose of defence against attack from hostile craft.

I have at the same time been instructed by His Majesty's Principal Secretary of State for Foreign Affairs to give the United States Government the fullest assurances that British merchant vessels will never be used for purposes of attack, that they are merely peaceful traders armed only for defence, that they will never fire unless first fired upon, and that they will never under any circumstances attack any vessel.

I have, etc.,

CECIL SPRING RICE.

¹ Special Supplement, July, 1915, p. 230.

EXHIBIT 3.

MEMORANDUM OF THE GERMAN GOVERNMENT CONCERNING THE TREATMENT OF ARMED MERCHANT VESSELS IN NEUTRAL PORTS, OF OCTOBER 13, 1914.

"An official notice appearing in the Westminster Gazette of September 21, 1914, states that the Department of State at Washington has ruled that ships of belligerent nations when equipped with ammunition and armament shall be treated nevertheless, while in American ports, as merchant ships, provided the armament serves for defensive purposes only. This ruling wholly fails to comply with the principles of neutrality. The equipment of British merchant vessels with artillery is for the purpose of making armed resistance against German cruisers. Resistance of this sort is contrary to international law, because in a military sense a merchant vessel is not permitted to defend itself against a war vessel, an act of resistance giving the warship the right to send the merchant ship to the bottom with crew and passengers. It is a question whether or not ships thus armed would be admitted into ports of a neutral country at all. Such ships, in any event, should not receive any better treatment in neutral ports than a regular warship, and should be subject at least to the rules issued by neutral nations restricting the stay of a warship. If the Government of the United States considers that it fulfills its duty as a neutral nation by confining the admission of armed merchant ships to such ships as are equipped for defensive purposes only, it is pointed out that so far as determining the warlike character of a ship is concerned, the distinction between the defensive and offensive is irrelevant. The destination of a ship for use of any kind in war is conclusive, and restrictions as to the extent of armament afford no guarantee that ships armed for defensive purposes only will not be used for offensive purposes under certain circumstances."

EXHIBIT 4.

[Translation.]

DIGEST OF CASES IN WHICH ENEMY MERCHANT SHIPS HAVE FIRED
ON GERMAN OR AUSTRO-HUNGARIAN SUBMARINES.

Date.	Place.	Nationality and name of the ship.	Particulars of surrounding circumstances.
1915 Apr. 11	South North Sea, near the Nordhinder lightship.	Unknown steamer.	Steamer without a flag. Steamer saw periscope; opened gunfire at about 3,000 meters and turned on U . . . Report of the shells could be heard near the boat (about 15 or 20 shots).
Apr. 28	North Sea, about 60 nautical miles N.E. of the mouth of the Tyne.	Unknown steamer of medium size.	Steamer was sighted running onward; suddenly opened fire at about 3,000 meters without hoisting flag. On account of her head-on position it could not be seen whether she bore neutral marks. From the impact of the shots the guns were from 5 to 7 centimeters. U . . . escaped the well-directed fire by speedily submerging.
May 29	West entrance to the English Channel, near Ouessant (Ushant Island).	English S. S. <i>Demerara</i> .	U . . . chased the steamer and tried when 4,500 meters off to bring her to a halt by firing warning guns. Steamer turned off and returned the fire.
June 3	West entrance to the English Channel, 50 nautical miles south of the Scilly Isles.	Unknown steamer.	U . . . tried to bring the steamer to a halt by firing warning shots with her artillery. The steamer returned the fire with a poop gun.
June 14	West of the Hebrides (about 30 nautical miles off Lewis).	Two unknown steamers.	The two steamers were running close together—at about 4,000 meters—both opened fire on U . . . with

**DIGEST OF CASES IN WHICH ENEMY MERCHANT SHIPS HAVE FIRED
ON GERMAN OR AUSTRO-HUNGARIAN SUBMARINES—Continued.**

Date.	Place.	Nationality and name of the ship.	Particulars of surrounding circumstances.
1915			small caliber poop guns. Shots hit sideways very bad. Speedy submerging, running deep; so submarine attack hopeless.
Aug. 14	Irish Sea.	Large English steamer of the Royal Mail Line.	U . . . was fired on suddenly by the steamer without provocation from a distance of 8,000 meters. Shots fell short. No attack was attempted on the steamer.
Aug. 18	Bristol Channel.	Unknown steamer.	Tried to bring steamer to a halt by gunfire after warning. When steamer saw that U boat was waiting she suddenly opened fire with a gun from the promenade deck.
Sept. 10	Western Mediterranean.	do.	A steamer was challenged to show her flag; she turned away without hoisting the flag and opened fire with a 10-centimeter poop gun on the U boat, which escaped the firing by speedily submerging.
Oct. 7	Middle Mediterranean.	French S. S. <i>Amiral Hamelin</i> .	U . . . signaled the steamer to stop; she turned away and ran on a zigzag course. The U boat tried to bring the steamer to a halt by artillery fire; when about 3,000 meters distant she returned the fire. It was some time before the steamer stopped. She was sunk later.

**DIGEST OF CASES IN WHICH ENEMY MERCHANT SHIPS HAVE FIRED
ON GERMAN OR AUSTRO-HUNGARIAN SUBMARINES—Continued.**

Date.	Place.	Nationality and name of the ship.	Particulars of surrounding circumstances.
1915 Nov. 3	Western Mediter- ranean.	English transport steamer <i>Wood- field</i> .	The steamer did not stop at the warning gun. At a distance of 6,000 meters she returned the fire with a small gun. She was forced to stop by artillery fire and her crew list showed that the steamer carried gunners and enlisted men of the navy as members of her crew.
Nov. 5	Western Mediter- ranean.	Unknown steamer.	A large steamer was chased by U . . . after being challenged in vain. The steamer returned the fire with a large gun. The chase had to be given up.
Nov. 6	Eastern Mediter- ranean.	English tank steamer <i>Lumina</i> .	The steamer was challenged to stop by a warning gun. She turned about, ran away, and returned the fire with a poop gun. She was compelled to stop by artillery fire and later was sunk.
Nov. 11	Western Mediter- ranean.	English S. S. <i>City of Marseille</i> .	U . . . after warning tried to stop a large freight steamer by artillery fire. The steamer turned away and returned the fire with two guns of about 10 centimeters. The U boat had to give up the chase; the steamer got away. A press telegram of January 1, 1916, from Bombay told the incident in detail; the steamer claimed she had sunk the U-boat.

**DIGEST OF CASES IN WHICH ENEMY MERCHANT SHIPS HAVE FIRED
ON GERMAN OR AUSTRO-HUNGARIAN SUBMARINES—Continued.**

Date.	Place.	Nationality and name of the ship.	Particulars of surrounding circumstances.
1915 Nov. 30	Middle Mediterranean.	Unknown steamer.	U . . . after a warning gun tried to stop a large steamer by artillery fire. The steamer turned away and returned the fire with a small gun.
Dec. 8	Eastern Mediterranean.	do.	The steamer was approached under water. She fired with a poop gun on the periscope as soon as it emerged.
Dec. 13	Middle Mediterranean.	Unknown English steamer.	U . . . tried to stop by artillery fire a large steamer with poop guns that showed no flag. The steamer hoisted the English flag and returned the fire with two guns.
Dec. 14	do.	Unknown steamer.	U . . . approached the steamer which stopped at sight of the boat and ordered her to show her flag. The steamer speeded away keeping up a brisk fire from a poop gun.
1916 Jan. 17	do.	do.	U . . . ordered a steamer apparently in ballast, that was sighted on a westerly coast, to stop. The steamer turned about, ran away, and fired with a poop gun.
Jan. 17	do.	English S. S. <i>Melanie</i> .	U . . . signalled a flush-decked freight steamer with raised forecastle and cabin of about 3,000 tons, sailing under the Dutch flag, to send a boat and

**DIGEST OF CASES IN WHICH ENEMY MERCHANT SHIPS HAVE FIRED
ON GERMAN OR AUSTRO-HUNGARIAN SUBMARINES—Continued.**

Date.	Place.	Nationality and name of the ship.	Particulars of surrounding circumstances.
			have the ship's papers examined. This was done after a while. As U . . . which for safety's sake had gone under, came to the surface about 1,000 meters away from the steamer near the ship's boat, the steamer opened fire with two guns of medium caliber and machine guns so briskly that the U . . . barely saved herself by speedily submerging. Throughout the action, the steamer displayed the Dutch flag; she bore the name of <i>Melanie</i> which is found not in the Dutch, but in the English marine list.

EXHIBIT 5

[Exhibit 5 is a duplicate of Exhibit 6, with the following modifications: The side note to paragraphs 1-5 under the heading "General" reading "not applicable to ocean-going vessels permanently armed" does not appear in Exhibit 5; a clause reading "in one of the officers' messes" has been omitted in Exhibit 6 after the word "but" in paragraph 5 of the same heading; and paragraph 6 with its subdivisions i and ii have been added in Exhibit 6 under the heading "Instructions for Carrying and Firing Practice."—Ed.]

EXHIBIT 6.

(Found on the English Steamer *Woodfield*.)*Confidential.*INSTRUCTIONS FOR GUIDANCE IN THE USE, CARE, AND MAINTENANCE OF
ARMAMENT IN DEFENSIVELY ARMED MERCHANT SHIPS.*General.*

not applicable to ocean-going vessels permanently armed.

1. Ratings embarked as gun's crew will sign the ship's articles at the rate of pay communicated.
2. They are to obey the orders of the master and officers of the ship. If they think it necessary to make a complaint against any order, they are to obey the order and make their complaint in writing, asking that it may be forwarded to the proper authorities.
3. The ratings are not required for duties unconnected with the armament except in case of emergency, but they are to assist at all times in the welfare of the ship and look after the cleanliness of their berths.
4. They are to keep watch and watch at sea, and also when the ship is anchored in any place liable to attack by submarines.
5. They will receive their pay through the master of the ship. They will not mess with the crew, but as the master may decide.
6. Uniform is not to be worn in neutral ports.
7. A brief report is to be rendered by the senior rating on the 1st of each month, countersigned by the master, and sent to:
The Director of Trade Division,
Admiralty, Whitehall, S. W.

Drill and Maintenance of Gun.

8. The ratings embarked are entirely responsible for the efficiency in all respects of the gun and ammunition, which should be ready day and night.
9. The senior rating is to arrange with the master to detail the necessary additional men to complete the gun's crew up to the numbers required by the drill book.
10. One of the ratings is to act as gun layer and the other as breech worker. The remaining numbers should be told off to act as sight setter, projectile loader, and cartridge loader, etc.

11. Arrangements are to be made with the master to detail a sufficient number of hands, over and above the gun's crew, to supply ammunition to the gun on going into action.

12. A ready supply of 10 complete rounds, with percussion tubes in the cartridges, is to be kept at the gun day and night. Care should be taken that a supply of one percussion tube to each cartridge is kept aside for action, and this supply of tubes is never to be encroached on for practice firing.

13. The senior rating should arrange with the master for the instruction of the ratings told off as gun's crew and ammunition supply party.

14. A drill book is supplied for information, but it is not necessary that the gun's crew should be burdened with details, provided that they understand what is required when the gun is to be fought.

15. Percussion firing should always be used, as it is the most certain means of discharging the gun; and therefore—

(a) Cartridges, in ready supply only, should be kept ready tubed with percussion tubes. Tubes not required for ready supply of cartridges should be retained in their sealed boxes to preserve them from damp.

(b) Aiming practice with a percussion lanyard should be carried out daily. It is not necessary to fire a tube in this practice, but the breech worker should be exercised at the same time in cocking the striker while the breech is open and in hooking on the firing lanyard and passing it to the gun layer.

NOTE.—The present allowance of percussion tubes is one per cartridge. Electric firing mechanism and batteries are therefore to be kept efficient in every respect in case the supply of percussion tubes becomes insufficient from damp or other causes.

16. Great attention is to be paid to the ready supply of ammunition to keep it clean and dry. If tubes and cartridges are not kept dry there is considerable danger of hanging fire. The projectiles are to be lightly oiled. In case the cartridges are suspected to have become wet they should be laid aside until return to harbour.

17. For the maintenance of the gun and mounting it is to be borne in mind that "lubrication is the secret of efficiency in gun machinery." All oil channels should be seen clear of vaseline and filled with oil. It is to be remembered that vaseline is a preservative only; oil is a lubricant.

Each morning and evening the bore is to be seen clear, recoil cylinders filled, striker protrusion gauged, and the gun trained and elevated to both extremes.

The gun is to be cleaned twice a day, gear being supplied by the master.

Brickdust is *not* to be used on machined surfaces.

Action.

The master is responsible for handling the ship and for opening and ceasing fire. He has been furnished with instructions which will enable him to do this to the best advantage. The duty of the gun's crew is to fight the gun under the general direction of the master, who will communicate to them so much of the instructions as he may consider necessary to enable them to fight the gun to the best advantage.

In action the following instructions should be carried out:

(1) When in submarine waters everything should be in a state of readiness, but the gun should not be kept actually loaded.

(2) When the enemy is engaged—

(a) The point of aim should be the centre of the water line.

(b) It is to be remembered that "over" shots are useless. A short shot by causing a splash confuses the enemy. It may ricochet into the enemy. If the shell bursts on striking the water, as it usually does, some fragments are likely to hit the enemy. To get the best results at least half of the shots fired should fall short.

(3) The master will probably keep the submarine astern, so that little deflection will be necessary.

(4) It is not advisable to open fire at a range greater than 800 yards, unless the enemy has already opened fire, for the following reasons:

(a) The ammunition supply is limited.

(b) Accurate shooting under probable existing conditions can not be expected at greater ranges.

(5) When in action and a miss fire occurs with a percussion tube, the following procedure is to be adopted:

(a) The B. M. lever is to be tapped to insure it is closed.

(b) The striker is to be recocked.

If the gun does not then fire, the striker is to be taken out to insure that the point is not broken. If unbroken, the breech is to be opened and

the cartridge is to be thrown overboard, it having been ascertained that the percussion tube has been inserted.

The gun is then to be reloaded.

Instructions for Carrying out Firing Practice.

1. In order to ensure that the gun is maintained in an efficient condition, one round is to be fired every two months.

2. In order to prevent false alarms it is essential that the firing referred to in paragraph 1 shall take place in clear weather and out of sight of land *and of other ships*.

3. If convenient a cask or other suitable object should be dropped as a target, and the gun should be fired when the range is about 800 yards.

4. The gun's crew and ammunition supply party should be exercised on the day previous to the practice, and also immediately before firing.

5. Before practice firing the following procedure is to be carried out:

(a) Recoil cylinders and tanks are to be seen filled.

(b) Bore is to be seen clear.

(c) Moveable objects in the way of blast from the gun are to be removed.

(d) The striker is to be examined to see—

(1) That sheath net is screwed up and keep pin in place and intact.

(2) That needle set and check-nuts are screwed up.

(3) That striker does not protrude with B. M. lever in open position.

(4) That striker does not move forward till marks on breech block and gun are in line.

(5) That safety stop is correct and keep-screw is in place.

(6) In guns fitted with "A" breech mechanism, the mechanism is never to be taken apart.

Paragraphs (1), (2), and (5) do not apply, but the following should be seen to:

(i) The nut retaining striker must be seen screwed up and keep-screw in place.

(ii) The needle retaining-nut should be seen screwed up taut.

ADMIRALTY,

7 May, 1915.

EXHIBIT 7.

(Found on the English Steamer *Woodfield*.)*Confidential.*

ADDENDA TO INSTRUCTIONS FOR GUIDANCE IN THE USE, CARE, AND MAINTENANCE OF ARMAMENT IN DEFENSIVELY ARMED MERCHANT SHIPS.

1. The master should arrange wherever possible that the space in the immediate vicinity of the gun is railed off, and passengers and other unauthorized persons should not be allowed near the gun.

2. A notice to this effect should be posted up near the gun.

3. When the ship is in harbour, one of the two ratings is always to be on board to keep guard on the gun and ammunition, and the master is to use his discretion as to keeping both ratings on board, should he consider such a course to be desirable.

4. The gun is to be kept covered at all times when not in use.

5. Whenever the ships anchor in the vicinity of a man-of-war, a request should be made to the commanding officer of the man-of-war for an armourer to inspect the gun and mounting.

ADMIRALTY,

27 May, 1915.

EXHIBIT 8.

(Found on the English Steamer *Woodfield*.)DRILL BOOK FOR 12-PR. Q. F. GUNS ISSUED TO DEFENSIVELY ARMED
MERCHANT SHIPS. ADMIRALTY, GUNNERY BRANCH.

(G. 6118/15. May 1915.)

[Translation.]

Note: The contents of this Drill Book have only a military interest.

EXHIBIT 9.

[Exhibit 9 is a duplicate of Exhibit 10 down to paragraph 6 of the latter. Exhibit 9 bears No. 45 and is dated 25th February, 1915.—Ed.]

EXHIBIT 10.

(Found on the English Steamer *Woodfield*.)*Confidential.*

No. 291.

IN NO CIRCUMSTANCES IS THIS PAPER TO BE ALLOWED TO FALL INTO
THE HANDS OF THE ENEMY.

This paper is for the master's personal information. It is not to be copied, and when not actually in use is to be kept in safety in a place where it can be destroyed at a moment's notice.

Such portions as call for immediate action may be communicated verbally to the officers concerned.

April, 1915.

INSTRUCTIONS REGARDING SUBMARINES APPLICABLE TO VESSELS CARRY-
ING A DEFENSIVE ARMAMENT.

1. Defensively armed vessels should follow generally the instructions for ordinary merchant ships.

2. In submarine waters guns should be kept in instant readiness.

3. If a submarine is obviously pursuing a ship by day and it is evident to the master that she has hostile intentions, the ship pursued should open fire in self-defence, notwithstanding the submarines may not have committed a definite hostile act, such as firing a gun or torpedo.

4. In view of the great difficulty in distinguishing a friend from an enemy at night, fire should not be opened after dark unless it is absolutely certain that the vessel fired at is hostile.

5. Before opening fire the British colours must be hoisted.

It is essential that fire should not be opened under neutral colours.

6. If a defensively armed vessel is pursued by a submarine the master has two alternatives:

(a) To open fire at long range immediately it is certain that the submarine is really in pursuit.

(b) To retain fire until the submarine has closed to a range, say 800 yards, at which fire is likely to be effective. In view of the very great difficulty of distinguishing between friendly and hostile submarines at long range (one British submarine has already been fired at by a merchant vessel which erroneously supposed herself to be pur-

sued by the submarine), it is strongly recommended that course (b) should be adopted by all defensively armed ships.

7. A submarine's flag is no guide to her nationality, as German submarines frequently fly British colours.

8. Vessels carrying a defensive armament and proceeding to neutral ports must not be painted in neutral colours or wear a neutral flag.

9. It is recommended that in neutral ports, particularly those of Spain, the armament should be concealed as far as possible. A canvas cover is recommended for this purpose.

EXHIBIT 11.

(Found on the English Steamer *Woodfield*.)

Secret.

MEMORANDUM FOR ISSUE TO MASTERS OF TRANSPORTS CARRYING TROOPS.

Use of Rifle and Machine Gun Fire by Troops on Board Transports against Enemy Submarines or Torpedo Craft.

(1) In daylight a submarine will probably attack while submerged with only her periscope showing.

At night, in moonlight, a submarine may attack while on the surface or with only her conning tower above water owing to the difficulty of seeing through the periscope at night.

(2) In either case heavy rifle or machine-gun fire will make it more difficult for a submarine to make a successful shot with a torpedo. If submerged, no injury will be done to her, but a good volume of fire falling just short of the periscope will make splashes which will render it difficult for the observer to see clearly through the periscope.

(3) When a destroyer escort is accompanying a transport, troops should not open fire on a submarine, as it may prevent a destroyer from ramming her, nor should their weapons be loaded, in order to avoid the possibility of an escorting vessel being fired on by mistake, especially at night.

(4) When no escort is provided, machine guns should be in readiness to open fire, and a strong party of riflemen should also be on duty.

(5) Military officers should be in command both of the machine guns and riflemen to control the fire.

(6) A military officer of the watch should be in command of the troops on deck. He should not order fire to be opened on a hostile submarine or torpedo vessel without the previous assent of the master or his representative—the ship's officer of the watch.

(7) The object of those controlling the fire should be to keep the centre of the pattern just short of the hostile vessel.

(8) Machine-gun tripods can be lashed to the rails or other deck fittings. If there is motion on the ship and machine guns are fitted with elevating or training gear, it is advisable to disconnect it and point the gun by hand.

(9) Field guns with recoil mountings might possibly be secured on deck in such a manner as to permit of their being fired, but their arc of training would be very restricted, and it is unlikely that gun layers, without previous training afloat, could make satisfactory practice from a ship with motion on. Their use is not, therefore, recommended.

(10) In men-of-war it has been the practice for very many years to station sentries with ball cartridge on deck opposite the boats in the event of fire, collision, or other serious emergency likely to lead to the boats being required. Their duties are to prevent anyone getting into the boats or attempting to lower the boats without orders from the captain or his representative. This practice should be followed in transports.

ADMIRALTY,

31st May, 1915.

EXHIBIT 12.

(Found on the English Steamer *Linkmoor*.)

ADMIRAL SUPERINTENDENT'S OFFICE,
Malta, June, 1915.

Instructions to British Merchant Vessels Passing Through the Mediterranean Sea.

It is now certain that there are enemies submarines at sea in the Mediterranean.

In order to avoid attack you are to keep out of the track of shipping.

You are to darken ship at night and are not to show navigation lights except, at discretion, to avoid collision, and all lights are to be extinguished when necessity is passed.

You are to carry out the procedure recommended by the Admiralty in their printed instructions if a hostile submarine is sighted.

The German Ambassador to the Secretary of State.

GERMAN EMBASSY,
Washington, February 29, 1916.

MY DEAR MR. SECRETARY: With reference to our conversation of yesterday I beg to state that, according to wireless information which I received from my Government, English newspapers, amongst others the London Times and Daily Graphic, dealing with the question of armed merchantmen, openly declare that British merchantmen have no intention to conform even to the American viewpoint which permits arming of merchantmen for purposes of defense only.

The naval correspondent of the London Times, in the edition of February 10th, admits that steamers *Kashgar*, *City of Marseille*, and the French steamer *Plata* opened fire on submarines after sighting them. The correspondent then, referring to the episode of the *Clan McTavish*, says that it did not meet deserved success, but that it shows the readiness with which merchantmen can "attack."

Likewise Daily Graphic in an article of February 12th, dealing with the same question, says: "Let it be understood that we shall not limit our action to defensive measures." A similar utterance is reported about in the Daily Graphic of February 22nd.

On the other hand the semi-official North German Gazette on February 26th, referring to President Wilson's letter to Senator Stone, as viewed by Reuter, publishes the following article:

The principles stated in the German memorandum are by no means opposed to international law, for secret orders of the British Admiralty published in the memorandum expressly instruct armed British merchantmen to not only defend themselves but to attack also. Numerous incidents quoted in the memorandum give further proof that the ships follow this instruction. Such vessels according to international law cease to be peaceful trading ships. On the other hand the precedent taken by our enemies appears as gross breach of law of nations, since they through merchantmen commit acts of warfare that only a real man-of-war is entitled to. If President Wilson in his letter to Senator Stone says that announced measures against armed enemy merchant ships are contrary to express assurances given by Germany and Austro-Hungary, this is apparently caused by misunderstanding. For these

assurances referred only to peaceful liners and not to such ships whose armament is connected with aggressive purposes. These misunderstandings were apparently caused by the fact that the memorandum with annexes is not yet in the hands of the American Government and that therefore the President is so far unable to examine both.

I am, etc.,

J. BERNSTORFF.

*Informal letter from the British Ambassador to the Secretary of State.*¹

BRITISH EMBASSY,
Washington, March 23, 1916.

MY DEAR MR. SECRETARY: I did not fail to communicate to my Government copy of your unofficial letter of the 18th January relative to submarine warfare.

My Government has given the matter its careful consideration in consultation with the Allied Governments and, in obedience to my instructions, I beg to communicate the accompanying memorandum embodying its views.

I am, etc.,

CECIL SPRING RICE.

[Inclosure—Translation.]

BRITISH EMBASSY,
Washington, D. C.

MEMORANDUM.

Upon perusal of the personal letter addressed under date of January 18th last, by the Honorable Secretary of State of the United States to the Ambassador of England at Washington, the Government of His Britannic Majesty could not but appreciate the lofty sentiments by which Mr. Lansing was inspired on submitting to the countries concerned certain considerations touching the defensive armament of merchant vessels. But the enemy's lack of good faith, evidenced in too many instances to permit of their being regarded as isolated accidents justifies the most serious doubt as to the possibility of putting into practice the suggestions thus formulated.

From a strictly legal standpoint, it must be admitted that the arming

¹ Similar note with similar memorandum received from the Ambassador of France, March 22, from the Russian Ambassador, March 23, from the Ambassador of Italy, March 23, and from the Belgian Minister, March 23.

of merchant vessels for defense is their acknowledged right. It was established in some countries by long usage, in other countries it was expressly sanctioned by the legislator, such being the case in the United States, in particular.

It being so, it seems obvious that any request that a belligerent forego lawful means of protection from the enemy's unlawful attacks places, upon him, whoever he may be, who formulates the proposition, the duty and responsibility of compelling that enemy to desist from such attacks, for the said enemy would otherwise be encouraged rather to persist in that course. Now the suggestions above referred to do not provide any immediately efficacious sanction.

It is a matter of public knowledge that Germany as early as August, 1914, strewed mines over the Northern seas of Europe and later other seas without regard to any of the requirements of international law. The attendant loss of human lives and of vessels, though neutral, carrying innocent cargo was large. The perpetrators of those acts appear to have drawn encouragement from impunity.

The first act of that nature dates back to October 26, 1914. On that date, the French mail Steamer, *Amiral Ganteaume* unarmed, carrying from one point on the French coast to another, 2,500 civilian refugees largely consisting of women, children, and old men, was torpedoed without summons. Many lives were lost. After a thoroughgoing inquiry into the circumstances of the outrage, France served every neutral power with a statement thereof, but no useful result was achieved. As no sanction intervened, crimes of that description were repeated in large numbers thereafter.

In February of last year, Germany again grew so bold as to proclaim that it generalized its criminal action while limiting it to the Northern Seas of Europe. Whereupon and soon thereafter it began the same proceedings in the Atlantic Ocean, the Mediterranean and wherever a chance offered, and attacked neutral as well as allied vessels, passenger ships as well as freighters.

Great Britain is unable to agree that upon a non-guaranteed German promise, human life may be surrendered defenseless to the mercy of an enemy who, in circumstances of this kind as in many others, has shown himself to be both faithless and lawless.

At the end of his letter, the Honorable Secretary of State hypothetically considered the possibility of eventual decisions under which armed merchant vessels might be treated as auxiliary cruisers.

It is His Britannic Majesty's Government's conviction that the realization of such a hypothesis which would materially modify, to Germany's advantage, the statement of views published in this respect by the American Government on September 19, 1914, can not be given practical consideration by the American authorities.

Such a modification indeed would be inconsistent with the general principles of neutrality as sanctioned in paragraphs 5 and 6 of the preamble to the 13th convention of The Hague concerning maritime neutrality. Moreover the result would be contrary to the stipulations of the 7th convention of The Hague concerning the transformation of merchant vessels into war ships. Finally if armed merchant vessels were to be treated as auxiliary cruisers, they would possess the right of making prizes, and this would mean the revival of privateering.

Informal letter from the Secretary of State to the British Ambassador.¹

DEPARTMENT OF STATE,
Washington, April 7, 1916.

MY DEAR MR. AMBASSADOR: I have received your courteous letter of the 22d ultimo and given careful consideration to the Memorandum enclosed relating to the proposal for an agreement to disarm merchant vessels by the Entente Powers, which I unofficially submitted to you in my letter of January 18, 1916.

The proposal was made with the humane purpose of removing the principal reason given by the German and Austro-Hungarian Governments for the failure of their submarines to comply strictly with the rules of naval warfare in intercepting the merchant vessels of their enemies on the high seas, a practice which has resulted in an appalling loss of life among the passengers and crews of vessels which have been attacked without warning.

Believing that an arrangement, such as I had the honor to propose, would have resulted in the discontinuance by Germany and Austria-Hungary of a method of attack on merchant vessels which puts in jeopardy the lives of hundreds of men, women and children of neutral

¹ Same, *mutatis mutandis*, to the Ambassador of France, the Russian Ambassador, the Ambassador of Italy, the Belgian Minister, and, on June 1, 1916, to the Japanese Ambassador.

as well as belligerent nationality, I can not but regret that the Governments of the Entente Powers could not see their way to accede to the proposal.

The Entente Governments having, however, reached a decision to decline the proposed arrangement, it becomes my duty to accept their decision as final, and in the spirit in which they have made it.

I am, etc.,

ROBERT LANSING.

Ambassador Gerard to the Secretary of State.

No. 2880]

AMERICAN EMBASSY,

Berlin, April 11, 1916.

SIR: I have the honor to transmit herewith to the Department a copy and translation of a Note Verbale, dated April 11, 1916, received from the Imperial Foreign Office, enclosing a copy of an official order said to have been issued by the English Admiralty for armed English merchant vessels for the event of meeting submarines, which order was found on the English steamer *Appam* brought in as a prize by the German ship *Moewe*.

The substance of this Note is to-day being cabled to the Department.

I am, etc.,

For the Ambassador

J. C. GREW.

[Inclosure—Translation.]

No. III a 6499. .

69362.

FOREIGN OFFICE,

Berlin, April 11, 1916.

NOTE VERBALE.

The Foreign Office has the honor to transmit herewith to the Embassy of the United States of America a copy of an official order issued by the English Admiralty for armed English merchant vessels for the event of meeting submarines. The order was found on board the English steamer "*Appam*," brought in as a prize by His Majesty's Ship "*Moewe*."

It is evident from this official order also that the English merchant vessels are to proceed aggressively against any submarine which comes in sight; it is therefore likewise in conflict with the assertion of the British Government that English merchant vessels are only armed for defence.

The Foreign Office begs to request the Embassy to acquaint its Government of the above.

[Subinclosure.]

Any submarine approaching a merchant vessel may be treated as hostile. Gunfire from the latest submarines is effective in fine weather and at close range. If chased by submarine armed with gun, first attempt to escape; if this proves impossible, turn and steer straight for submarine before she gets close enough to use her guns effectively. It is believed that German submarine must get into a position nearly end on in order to fire a torpedo. In submarine waters all ships should proceed at utmost speed; fast ships whose speed exceeds ten knots should zigzag, course being altered at short and irregular intervals unless proximity of other vessels makes this unsafe for navigation. Under water speed of submarine is low and zigzagging makes it difficult for it to get into position to deliver surprise attack. Wireless warnings sent out from Saintjust and Valencia at three and nine a. m. and p. m. in M. V. Code will tell you where submarines are active, but should necessity arise warnings may be sent at any time. German submarines are fitted with wireless. No wireless signals except in emergency are allowed within 100 miles from British coast.

Most important to make landfall after dark and when position is verified give coast a wide berth. Submarines can operate as surface boats at night; all unnecessary lights therefore increase the danger. The presence of a ship may be disclosed to a submarine by the undue use of a siren.

Instruction from Admiralty Secret.

(Signature illegible.)

13. 6. 15.

Informal letter from the Japanese Ambassador to the Secretary of State.

IMPERIAL JAPANESE EMBASSY,
Washington, May 18, 1916.

MY DEAR MR. SECRETARY: In continuation of my note of the 27th of January last,¹ in which I took pleasure to acknowledge receipt of your note of the 24th idem containing a suggestion relating to the question of

¹ Not printed.

submarine warfare and armed merchantmen and to advise you that, in compliance with your request therein, the note had been referred to my Government, I now beg, under instructions from Baron Ishii, to inform you that my Government, finding themselves in complete agreement with the views of the allied governments, regret to be unable to see their way to meeting the suggestion of the Honorable the Secretary of State.

Accept, etc.,

S. CHINDA.

4. STATUS OF BELLIGERENT SUBMARINES IN NEUTRAL WATERS.

*Memorandum from the French Embassy.*¹

[Translation.]

FRENCH EMBASSY,
Washington, August 21, 1916.

MEMORANDUM.

In the presence of the development of submarine navigation, under existing circumstances and by reason of what may unfortunately be expected from enemy submarines, the Allied Governments deem it necessary, in order to protect their belligerent rights and the freedom of commercial navigation, as well as to remove chances of conflict, to exhort the neutral Governments, if they have not already done so, to take efficacious measures tending to prevent belligerent submarines, regardless of their use, to avail themselves of neutral waters, roadsteads, and harbors.

In the case of submarines the application of the principles of international law offers features that are as peculiar as they are novel, by reason, on the one hand, of the facility possessed by such craft to navigate and sojourn in the seas while submerged and thus escape any supervision or surveillance, and, on the other hand, of the impossibility to identify them and determine their national character, whether neutral or belligerent, combatant or innocent, and to put out of consideration the power to do injury that is inherent in their very nature.

It may be said, lastly, that any submarine war vessel far away from its base, having at its disposal a place where it can rest and replenish its supplies, is afforded, by mere rest obtained, so many additional facilities that the advantages it derives therefrom turn that place into a veritable basis of naval operations.

In view of the present condition of things the Allied Governments hold that—

¹ Identic memoranda were received from the embassies of Italy, dated Aug. 21; Great Britain, dated Aug. 22; Russia, dated Aug. 26; Japan, dated Aug. 28; and from the Portuguese Legation, dated Aug. 30, 1916.

Submarine vessels must be excluded from the benefit of the rules heretofore accepted in international law regarding the admission and sojourn of war and merchant vessels in the neutral waters, roadsteads, and harbors; any submarine of the belligerents that once enters a neutral harbor must be held there.

The Allied Governments take this opportunity to warn the neutral Powers of the great danger to neutral submarines attending the navigation of waters visited by the submarines of belligerents.

*Memorandum to the French Embassy.*¹

DEPARTMENT OF STATE,
Washington, August 31, 1916.

MEMORANDUM.

The Government of the United States has received the identic memoranda of the Governments of France, Great Britain, Russia, and Japan in which neutral Governments are exhorted "to take efficacious measures tending to prevent belligerent submarines, regardless of their use, to avail themselves of neutral waters, roadsteads, and harbors." These Governments point out the facility possessed by such craft to avoid supervision or surveillance or determination of their national character and their power "to do injury that is inherent in their very nature," as well as the "additional facilities" afforded by having at their disposal places where they can rest and replenish their supplies. Apparently on these grounds the Allied Governments hold that "Submarine vessels must be excluded from the benefit of the rules heretofore accepted under international law regarding the admission and sojourn of war and merchant vessels in neutral waters, roadsteads, or harbors; any submarine of a belligerent that once enters a neutral harbor must be held there," and, therefore, the Allied Governments "warn neutral powers of the great danger to neutral submarines attending the navigation of waters visited by the submarines of belligerents."

In reply the Government of the United States must express its surprise that there appears to be an endeavor of the Allied Powers to determine the rule of action governing what they regard as a "novel situation" in respect to the use of submarines in time of war and to

¹ Same to the embassies of Great Britain, Russia, and Japan, and, *mutatis mutandis*, to the Italian Embassy, Sept. 8, 1916, and to the Portuguese Legation, Sept. 13, 1916.

enforce acceptance of that rule, at least in part, by warning neutral powers of the great danger to their submarines in waters that may be visited by belligerent submarines. In the opinion of the Government of the United States the Allied Powers have not set forth any circumstances, nor is the Government of the United States at present aware of any circumstances, concerning the use of war or merchant submarines which would render the existing rules of international law inapplicable to them. In view of this fact and of the notice and warning of the Allied Powers announced in their memoranda under acknowledgment it is incumbent upon the Government of the United States to notify the Governments of France, Great Britain, Russia, and Japan that, so far as the treatment of either war or merchant submarines in American waters is concerned, the Government of the United States reserves its liberty of action in all respects and will treat such vessels as, in its opinion, becomes the action of a power which may be said to have taken the first steps toward establishing the principles of neutrality and which for over a century has maintained those principles in the traditional spirit and with the high sense of impartiality in which they were conceived.

In order, however, that there should be no misunderstanding as to the attitude of the United States, the Government of the United States announces to the Allied Powers that it holds it to be the duty of belligerent powers to distinguish between submarines of neutral and belligerent nationality, and that responsibility for any conflict that may arise between belligerent warships and neutral submarines on account of the neglect of a belligerent to so distinguish between these classes of submarines must rest entirely upon the negligent power.

PART V.

DESTRUCTION OF AMERICAN MERCHANTMAN WILLIAM
P. FRYE BY THE GERMAN SHIP PRINZ EITEL FRIED-
RICH.

(Continuation of correspondence printed in Special Supplement, July, 1915,
pp. 180-193.)

Ambassador Gerard to the Secretary of State.

[Telegram.]

AMERICAN EMBASSY,
Berlin, September 20, 1915.

Following note received from the Foreign Office to-day:

FOREIGN OFFICE,
Berlin, September 19, 1915.

The undersigned has the honor to make the following reply to the note of His Excellency, Mr. James W. Gerard, Ambassador of the United States of America, dated 13th ultimo, on the subject of the claim for reparation for the sinking of the American merchantman *William P. Frye*.

With regard first to the ascertainment of the damages by experts the German Government believes that it should dispense with the nomination of an umpire. In the cases of the ascertainment of damages hitherto arranged between the German Government and a neutral Government from similar causes the experts named by the two parties have always reached an agreement as to the amount of the damage without difficulty; should it not be possible, however, to reach an agreement on some point, it could probably be settled by diplomatic negotiation. Assuming that the American Government agrees to this, the German Government names as its expert Doctor Kepny, of Bremen, director of the North German Lloyds; it begs to await the designation of the American expert.

The German Government declares that it agrees to the proposal of the American Government to separate the question of indemnity from the question of the interpretation of the Prussian-American treaties of 1785, 1799, and 1828. It therefore again expressly states that in making payment it does not acknowledge the violation of the treaty as contended by the American side, but it will admit that the settlement of

the question of indemnity does not prejudice the arrangement of the difference of opinion concerning the interpretation of the treaty rights, and that this dispute is left to be decided by The Hague tribunal of arbitration.

The negotiations relative to the signing of the *compromis* provided by Article 52 of The Hague Arbitration Convention would best be conducted between the Foreign Office and the American Embassy in Berlin in view of the difficulties in the way of instructing the Imperial Ambassador at Washington. In case the American Government agrees, the Foreign Office is prepared to submit to the Embassy a draft of such a *compromis*.

The American Government's inquiry whether the German Government will govern its naval operations in accordance with the German or American interpretation of the treaty stipulations in question pending the arbitral proceedings has been carefully considered by German Government. From the standpoint of law and equity it is not prevented in its opinion from proceeding against American ships carrying contraband according to its interpretation until the question is settled by arbitration. For the German Government does not need to depart from the application of generally recognized rules of the law of maritime war, as the Declaration of London, unless and in so far as an exception based on a treaty, is established beyond all doubt; in the case of the present difference of opinion between the German and the American Governments such an exception could not be taken to be established except on the ground of the arbitral award. Moreover, the disadvantages to Germany which would ensue from the American interpretation of the treaty stipulations would be so much greater as to be out of proportion to those which the German interpretation would entail for the United States. For whereas the American interpretation would materially impede Germany in her conduct of warfare, hardly any particular disadvantage to American citizens would result from the German interpretation, since they receive full reparation for any property damage sustained.

Nevertheless the German Government, in order to furnish to the American Government evidence of its conciliatory attitude, has issued orders to the German naval forces not to destroy American merchantmen which have loaded conditional contraband, even when the conditions of international law are present, but to permit them to continue their voyage unhindered if it is not possible to take them into port. On the other hand, it must reserve to itself the right to destroy vessels carrying absolute contraband wherever such destruction is permissible according to the provisions of the Declaration of London.

The undersigned begs to suggest that the Ambassador bring the above to the knowledge of his Government, and avails himself of the opportunity to renew, etc.

VON JAGOW.
GERARD.

The Secretary of State to Ambassador Gerard.

[Telegram.]

DEPARTMENT OF STATE,
Washington, October 12, 1915.

You are instructed to present the following note to the German Minister of Foreign Affairs:

In reply to Your Excellency's note of September 19, on the subject of the claim for damages for the sinking of the American merchantman *William P. Frye*, I am instructed by the Government of the United States to say that it notes with satisfaction the willingness of the Imperial German Government to settle the questions at issue in this case by referring to a joint commission of experts the amount of the indemnity to be paid by the Imperial German Government under its admitted liability for the losses of the owners and captain on account of the destruction of the vessel, and by referring to arbitration the question of the interpretation of treaty rights. The Government of the United States further notes that in agreeing to this arrangement the Imperial German Government expressly states that in making payment it does not acknowledge the violation of the treaty as contended by the Government of the United States, and that the settlement of the question of indemnity does not prejudice the arrangement of the differences of opinion between the two governments concerning the interpretation of the treaty rights. The Government of the United States understands that this arrangement will also be without prejudice to its own contention in accordance with the statement of its position in its note of August 10 last to Your Excellency on this subject, and the Government of the United States agrees to this arrangement on that understanding. Your Excellency states that the Imperial German Government believes that the nomination of an umpire should be dispensed with, because it has been the experience of the Imperial German Government that the experts named in such cases have always reached an agreement without difficulty, and that should they disagree on some point, it could probably be settled by diplomatic negotiation. The Government of the United States entirely concurs in the view that it is not necessary to nominate an umpire in advance. It is not to be assumed that the experts will be unable to agree, or that if they are, the point in dispute can not be settled by diplomatic negotiation, but the Government of the United States believes that in agreeing to this arrangement it should be understood in advance that in case the amount of indemnity is not settled by the joint commission of experts or by diplomatic negotiation, the question will then be referred to an umpire if that is desired by the Government of the United States.

Assuming that this understanding is acceptable to the German Gov-

ernment, it will only remain for the Government of the United States to nominate its expert to act with the expert already nominated by the German Government on the joint commission. It seems desirable to the Government of the United States that this joint commission of experts should meet without delay as soon as the American member is named and that its meetings should be held in the United States, because, as pointed out in my note to you of April 30 last, any evidence which the German Government may wish to have produced is more acceptable and can more conveniently be examined there than elsewhere.

With reference to the agreement to submit to arbitration the question of treaty interpretation, the Government of the United States notes that in answer to its inquiry whether, pending the arbitral proceedings, the German Government will govern its naval operations in accordance with the German or American interpretation of the treaty stipulations in question, the reply of the German Government is that it "has issued orders to the German naval forces not to destroy American merchantmen which have loaded conditional contraband even when the conditions of international law are present, but to permit them to continue their voyage unhindered if it is not possible to take them into port," and that "on the other hand it must reserve to itself the right to destroy vessels carrying absolute contraband whenever such destruction is permissible according to the provisions of the Declaration of London."

Without admitting that the Declaration of London is in force, and on the understanding that the requirement in article 50 of the Declaration that "before the vessel is destroyed all persons on board must be placed in safety" is not satisfied by merely giving them an opportunity to escape in lifeboats, the Government of the United States is willing, pending the arbitral award in this case, to accept the Declaration of London as the rule governing the conduct of the German Government in relation to the treatment of American vessels carrying cargoes of absolute contraband. On this understanding the Government of the United States agrees to refer to arbitration this question of treaty interpretation.

The Government of the United States concurs in the desire of the Imperial German Government that the negotiations relative to the signing of the compromise referring this question of treaty interpretation to arbitration under the provisions of Article 52 of The Hague Arbitration Convention, should be conducted between the German Foreign Office and the American Embassy in Berlin, and the Government of the United States will be glad to receive the draft compromise, which you inform me the Foreign Office is prepared to submit to the American Ambassador in Berlin. Anticipating that it may be convenient for the Imperial German Government to know in advance of these negotiations the preference of the Government of the United States as to the form of arbitration to be arranged for in the compromise, my Government desires me to say that it would prefer, if agreeable to

the Imperial Government, that the arbitration should be by summary procedure, based upon the provisions of Articles 86 to 90, inclusive, of The Hague Arbitration Convention, rather than the longer form of arbitration before the Permanent Court at The Hague.

Arrange for simultaneous publication of this note at earliest date which will give you time to notify the Department.

LANSING.

Ambassador Gerard to the Secretary of State.

No. 1964.]

AMERICAN EMBASSY,
Berlin, December 2, 1915.

SIR: With reference to my telegram of even date¹ and to previous correspondence on the subject of the claim for damages for the sinking of the American merchantman *William P. Frye*, I have the honor to transmit to you herewith a copy and translation of a note received from the Imperial Foreign Office, dated November 29, 1915, which replies to a note which I addressed to the Imperial Foreign Office on October 14, 1915, pursuant to the instructions contained in your telegram No. 2291, of October 12, 1915.

A copy and translation of the draft of a *compromis* submitted by the Imperial German Government is likewise transmitted herewith.

I have, etc.,

GERARD.

[Inclosure—Translation.]

The German Minister for Foreign Affairs to Ambassador Gerard.

BERLIN, *November 29, 1915.*

The undersigned has the honor to inform His Excellency, Mr. James W. Gerard, Ambassador of the United States of America, in reply to the note of October 14, F. O. No. 5671, relative to indemnity for the sinking of the American merchant vessel *William P. Frye*, as well as to the settlement by arbitration of the difference of opinion which has arisen on this occasion, as follows:

With regard first to the ascertainment of indemnity for the vessel sunk, the German Government is in agreement with the American Government

¹ Not printed.

in principle that the amount of damages be fixed by two experts, one each to be nominated by the German and the American Governments. The German Government regrets that it can not comply with the wish of the American Government to have the experts meet in Washington, since the expert nominated by it, Dr. Greve, of Bremen, director of the North German Lloyd, is unable to get away from here, and furthermore would be exposed to the danger of capture during a voyage to America in consequence of the conduct of maritime war by England contrary to international law. Should the American expert likewise be unable to get away, the two experts might perhaps get in touch with each other by correspondence.

The German Government likewise regrets that it can not assent at this time to the nomination of an umpire as desired by the American Government, for apart from the fact that in all probability the experts will reach an agreement in the case of the *William P. Frye* with the same facility as was the case with similar negotiations with other neutral Governments, the assent of the German Government to the consultation of an umpire would depend materially upon whether the differences of opinion between the two experts pertained to questions of principle or merely to the appraisalment of certain articles. The consultation of an umpire could only be considered at all in the case of appraisements of this nature.

Should the American Government insist on its demands for the meeting of the experts at Washington or the early choice of an umpire, the only alternative would be to arrange the fixing of damages by diplomatic negotiation. In such an event the German Government begs to await the transmission of a statement of particulars of the various claims for damages accompanied by the necessary proofs.

With regard to the arbitral treatment of the difference of opinion relative to the interpretation of certain stipulations of the Prussian-American commercial treaties, the German Government has drawn up the inclosed draft of a *compromis*, which would have to be worded in the German and English languages and drawn up with due consideration of the two alternating texts. It is true that the draft does not accommodate the suggestions of the American Government so far as it is not in accordance with the rules of summary procedure provided by chapter 4 of The Hague Arbitration Convention, but with the rules of regular procedure. The Summary procedure is naturally intended only for differences of opinion of inferior importance, whereas the German Govern-

ment attaches very particular importance to the interpretation of the Prussian-American treaties which have existed for over 100 years. Pursuant to the agreement made, any proposed amendments would have to be discussed between the Foreign Office and the American Embassy, and oral discussions would appear to be advisable.

Until the decision of the permanent court of arbitration, the German naval forces will sink only such American vessels as are loaded with absolute contraband, when the preconditions provided by the Declaration of London are present. In this the German Government quite shares the view of the American Government that all possible care must be taken for the security of the crew and passengers of a vessel to be sunk. Consequently, the persons found on board of a vessel may not be ordered into her lifeboats except when the general conditions, that is to say, the weather, the condition of the sea, and the neighborhood of the coasts afford absolute certainty that the boats will reach the nearest port. For the rest the German Government begs to point out that in cases where German naval forces have sunk neutral vessels for carrying contraband, no loss of life has yet occurred.

The undersigned begs to give expression to the hope that it will be possible for the two Governments to reach a complete understanding regarding the case of the *William P. Frye* on the above basis, and avails himself of this opportunity to renew to His Excellency, the Ambassador, the assurance of his highest consideration.

VON JAGOW.

[Translation.]

ARBITRATION COMPROMIS.

The Imperial German Government and the Government of the United States of America having reached an agreement to submit to a court of arbitration the difference of opinion which has arisen, occasioned by the sinking of the American merchant vessel *William P. Frye* by a German warship, in respect of the interpretation of certain stipulations of the Prussian-American treaties of amity and commerce, the undersigned, duly authorized for this purpose, have agreed to the following *compromis*:

ARTICLE I.

A court of arbitration composed in accordance with the following stipulations is charged with the decision of the legal question:

Whether according to the treaties existing between the parties, in par-

ticular Article XIII of the Prussian-American treaty of amity and commerce of July 11, 1799, the belligerent contracting party is prevented from sinking merchant vessels of the neutral contracting party for carrying contraband when such sinking is permissible according to general principles of international law.

ARTICLE II.

The court of arbitration shall be composed of five arbitrators to be chosen among the members of the permanent tribunal of arbitration at The Hague.

Each government will choose two arbitrators, of whom only one may be a national of such country, as soon as possible, at the latest within two weeks from the day this *compromis* is signed. The four arbitrators thus nominated shall choose an umpire within four weeks after they have been notified of their nomination; in case of an equal vote the president of the Swiss federal council shall be requested to select the umpire.

ARTICLE III.

On March 1, 1916, each party shall transmit to the bureau of the permanent tribunal of arbitration 18 copies of its argument with authenticated copies of all documents and correspondence on which it intends to rely in the case. The bureau will arrange without delay for the transmission to the arbitrators and to the parties, each arbitrator to receive two copies, each party three copies. Two copies shall remain in the archives of the bureau.

On May 1, 1916, the parties shall deposit their counterclaims with the supporting evidence and their statements in conclusion.

ARTICLE IV.

Each party shall deposit with the international bureau at the latest on March 1, 1916, the sum of 3,000 gulden of The Netherlands toward the costs of the arbitral procedure.

ARTICLE V.

The court of arbitration shall meet at The Hague on June 15, 1916, and proceed immediately to examine the dispute.

ARTICLE VI.

The parties may make use of the German or the English language.

The members of the court may use the German or the English language as they may choose. The decisions of the court shall be written in both languages.

ARTICLE VII.

Each party shall be represented by a special agent whose duty shall be to act as an intermediary between the party and the court. These agents shall furnish the court any explanations which the court may demand of them; they may submit any legal arguments which they may consider advisable for the defense of their case.

ARTICLE VIII.

The stipulations of the convention of October 18, 1907, for the pacific settlement of international disputes, shall be applied to this arbitral procedure, in so far as nothing to the contrary is provided by the above *compromis*.

Done in duplicate at Berlin on the — day of —

PART VI.

EXPORTATION OF ARMS AND MUNITIONS OF WAR

(Continuation of correspondence printed in Special Supplement, July, 1915, pp. 125-129, 146, 166-172.)

Austro-Hungarian Minister for Foreign Affairs to Ambassador Penfield.

No. 88855.]

IMPERIAL AND ROYAL
MINISTRY OF FOREIGN AFFAIRS,
Vienna, September 24, 1915.

The undersigned had the honor of receiving the much esteemed note of August 16 of this year, No. 2758, in which His Excellency the Ambassador Extraordinary and Plenipotentiary of the United States of America, Mr. Frederic Courtland Penfield, was good enough to define the position taken by the Government of the United States with respect to the standpoint represented by the Imperial and Royal Government in the question of the delivery of war requisites to Great Britain and her allies.

The representations which the Washington Cabinet have devoted to this question disclose the various points of view which are controlling for the Government of the United States in this matter, and which according to their opinion prevent them from accommodating themselves to the views of the Imperial and Royal Government. Much as the Imperial and Royal Government have endeavored to thoroughly examine the points which were presented as pertinent by the Washington Cabinet, the most careful weighing and evaluation thereof can not induce them to deviate from the standpoint set forth in their note of June 29 of this year, No. 59465.

The arguments of the Government of the Union are for a great part based upon the incorrect assumption that the Imperial and Royal Government had in any way contested the right which Article 7 of the Seventh and Thirteenth Hague Conventions accords to the subjects of neutral powers to supply belligerents with contraband, whereas the

above-mentioned note of the Imperial and Royal Government expressly stated that the text—but only the text—of the provision referred to affords the Government of the Union with a formal pretext for tolerating the traffic in munitions of war in which its citizens are at present engaged. It is a matter of course that the Imperial and Royal Government did not remotely expect a deviation from an effective treaty on the part of the Washington Cabinet; they merely pointed out that, according to their opinion, that provision should not be interpreted in a manner which would be at variance with the fundamental conception and the highest principles of the law of neutrality. It is true that from the progressive codification of international law there arises the danger that the principles of law laid down in written agreements be regarded as the essence of international law and in this way its most general fundamental conceptions, in so far as they have not been expressly fixed in state treaties, be overlooked.

However, this possibility should be prevented with particular reference to matters of the law of neutrality, and in this sense it appears to be emphasized in the preamble to the Thirteenth Hague Convention (paragraphs 2 and 3) that the stipulations of this convention represent only fragments, which can not cover all circumstances which may arise in practice and which find their corrective and supplement in the general principles of international law.

The Imperial and Royal Government then focused their statement in this matter upon the special problem of whether the cited treaty provision does not find its limitation in these principles; and in appealing to the opinion of science in their affirmation of the question they had in mind and could only have had in mind those authorities which inquire especially whether the otherwise permissible exportation of war requisites does not under certain circumstances involve a compromise of neutrality. In no place in the note of June 29 of this year is an assertion to be found to the effect that writers are unanimously of the view that the exportation of contraband is contrary to neutrality.

Further, the Imperial and Royal Government have in no way advocated a principle of "equalization." As a matter of fact they did not base their suggestion in the question of the exportation of war requisites upon the fact that they are not themselves in a position to draw munitions of war from the United States of America; they are indeed of the opinion that the excessive exportation of war requisites would not be permissible even if it were taking place to the countries of both bellig-

erent parties. It has never occurred to the Imperial and Royal Government that it is obligatory upon a neutral Power to equalize the disadvantage at which Austria-Hungary finds itself in not being able to draw munitions of war from the neutral territory by forbidding its subjects traffic in such objects with the enemies of the Monarchy. They only objected that the economic life of the United States had been made serviceable to the greatest extent by the creation of new and the enlargement of existing concerns for the manufacture and exportation of war requisites and thus, so to say, been militarized, if it be permitted to use here this much misused word.

But in the concentration of so many forces to the one end, the delivery of war requisites, which, although not so intended, actually result in an effective support of one of the belligerent parties, which appears all the more surprising when such articles as are not even contraband are not being supplied from the United States to the other belligerent party, lies a "*fait nouveau*," which weakens reference to supposed precedents in other wars. The parallel with former wars fails particularly as these were always wars between two individual Powers or wars between groups constituted of fewer Powers. Under this condition it was possible that if war supplies were delivered from a neutral country to only one belligerent party, the opponent could turn to other neutrals. But in the present war the United States is the only Power which can be reasonably considered in connection with such deliveries. For this reason the exportation of war requisites from the Union, as it is now being carried on, acquires quite another significance than that which the exportation of contraband could ever before have had. As all of these decisive points appeared in their full import only during the course of the war, the Austro-Hungarian Government consider themselves justified in the view that, in the sense of the last paragraph of the preamble to the Thirteenth Hague Convention, these points contain sufficient grounds for changing the practice hitherto adhered to by the United States. Complete and strict impartiality, such as is being aimed at by the Washington Cabinet, and thus abstention from every direct or indirect support or assistance of a belligerent party, doubtlessly appertains to the rights of a neutral state. If experience shows that an embargo of any character whatsoever becomes necessary for this purpose during the course of a war, this Power is justified in changing its previous neutrality practice.

On the other hand, the present case, which differs so completely from

all former cases, represents a "*fait nouveau*," which as already intimated, does not fall under the cited Article 7 and therefore can not be regarded otherwise than "*an unforeseen case*," which, in the sense of the preamble to the thirteenth convention (Par. 3) must be dealt with according to the general principles of international law, as has been set forth above.

Nor did the suggestion made by the Imperial and Royal Government with respect to the importation of foodstuffs and raw materials proceed from the idea that a neutral Government is bound to compensate for the advantages attained by one belligerent party over another by a system of non-intercourse with the former. As may be seen from the note of June 29 of this year, the aforesaid suggestion had merely the purpose of representing to the Washington Cabinet, which had presented the argument that, in consequence of the war situation, it was impossible for the United States to carry on commerce with the Central Powers, that it lay within the power of the Government of the Union to open up the possibility of doing so. In fact it is not the maritime successes of Great Britain and her allies which caused the cessation of trade between America and Austria-Hungary, at least as far as non-contraband goods are concerned, but the illegal measures adopted by the Entente Powers, which, as is not unknown to the Imperial and Royal Government, are also regarded as illegal by the Government of the Union.

The Imperial and Royal Government do not indeed deny that, if the Washington Cabinet should accommodate themselves to the Austro-Hungarian view, the position of the United States of America toward the two belligerent parties in the domain of commerce would be less unequal than is at present the case. But it appears to the Imperial and Royal Government that an argument against a suggestion which is perhaps otherwise recognized by a neutral Power as justifiable from a standpoint of neutrality is all the less to be deduced from the foregoing, since even according to the view of the Washington Cabinet, it is certainly not the task of a neutral State to shape its position as unequally as possible to the two belligerent parties or, in case such an inequality exists, not to disturb it under any circumstances.

As opposed to the assumption of the Government of the Union that, in the opinion of the Imperial and Royal Government, the exportation of arms and ammunition conflicted with the last paragraph of the preamble to the thirteenth convention, it may be emphasized that the Imperial and Royal Government based their position against the expor-

tation of war requisities, as represented above, on paragraphs 2 and 3 of the preamble. The appeal to the latter paragraph was intended to be in connection with the question of the illegitimate exclusion of Austria-Hungary from the American market and was for the purpose of showing that for this very reason the Government of the Union would be justified in issuing an embargo by legislative means.

If the Government of the United States, as it would appear, mean to express the view that the Government of a belligerent Power are not warranted in speaking in matters of the preservation or exercise of a right of a neutral state, this is perhaps to be explained by the fact that the Washington Cabinet gave a too restrictive interpretation to the last-mentioned paragraph, to the effect that this paragraph refers only to strictly personal rights, the protection of which even in the opinion of the Imperial and Royal Government must naturally be left to the discretion of the neutral state.

The aforesaid paragraph, however, as is clear from the report which the French delegate, M. Renault, made to the Committee of the Whole at the Hague Conference upon the thirteenth convention (Second International Peace Conference, Acts and Documents, Volume 1, page 326) has in view the case of the observance of neutrality, and therefore the privilege of approaching a neutral government with appeal to the said passage can not be denied to a belligerent, in case the question of the protection of the rights of a neutral state touches upon the sphere of rights of the belligerent.

The Imperial and Royal Government have followed with keen interest the representations of the Government of the Union, wherein the points of view which make it imperative for the Washington Cabinet to place no restrictions upon the exportation of war material during the present war are set forth; however, they do not abandon the hope of meeting the approval of the Government of the Union in remarking that these points of view of a purely practical nature do not influence the legal aspect of the case, and it must remain uninvestigated by us whether the fact that the manufacturer of requisites of war in the United States could assume such large dimensions would not rather justify the conclusion that the United States, where all requisites for this production, *viz*, manual labor, natural resources, and capital exist in abundance, would not be dependent upon drawing war material from abroad, in case it should have to conduct a war of its own, in which their own cause would increase the energy of its citizens.

The Imperial and Royal Government particularly beg to add the following:

In citing the precedents appealed to by the Washington Cabinet, which, as already mentioned, can not, however, be recognized as such, the Government of the Union emphasize the example of the Boer War, during which a commercial isolation of one of the belligerent parties analogous to that in the present war occurred. In truth such an analogy can scarcely be recognized, because at that time Great Britain had not proclaimed a prohibition of trade, such as that presented by the present illegal measures of the London Cabinet, and because a commercial isolation certainly can not be seen in the prevention of the importation of arms and ammunitions, as mentioned by the Government of the Union, to say nothing of the fact that the exportation of war material from Austria-Hungary in the Boer War, just as in other wars in which such exportation took place at all, the bounds of reasonableness were never overstepped.

As to the reference of the Washington Cabinet to the German authority, the ground has been cut from under it and the conclusions derived therefrom by the fact that, as in the meantime must have become known to the Government of the Union, Mr. Einicke has publicly protested against the use of a passage of his treatise on neutrality in maritime warfare in support of the attitude of the Washington Cabinet. Moreover, the Imperial and Royal Government regard it as a matter of course that a neutral state must not proclaim an embargo with the intention of injuring one of the belligerent parties. It is equally a matter of course that it can never be asserted of an embargo which a state has proclaimed for the maintenance of its neutrality that this was done with a view of injuring one of the belligerent parties.

Finally, the observations of the Government of the Union dealing with the provisioning of vessels of war are apparently based upon a misunderstanding. In mentioning the prohibition of the delivery of vessels of war and the prohibition of certain deliveries to vessels of war the Imperial and Royal Government had no concrete case in view, but rather the prohibition expressed in Articles 8, 19, and 20 of the Thirteenth Hague Convention.

The undersigned has the honor to appeal to the kindness of His Excellency the American Ambassador with the most respectful request that he be good enough to communicate to the Washington Cabinet by telegraph the foregoing friendly arguments, which are merely intended

as a final supplement to the statement of the legal aspect of the matter as defined in the note of June 29 of this year with regard to the points set forth by the Government of the Union, and at the same time the undersigned avails himself, etc.

BURIAN.

PART VII.

RECALL OF DR. CONSTANTIN THEODOR DUMBA, AUSTRO-HUNGARIAN AMBASSADOR AT WASHINGTON.

The Secretary of State to Ambassador Penfield.

[Telegram.]

DEPARTMENT OF STATE,
Washington, September 8, 1915.

You are instructed to present immediately the following in a note to the Foreign Office:

Mr. Constantin Dumba, the Austro-Hungarian Ambassador at Washington, has admitted that he proposed to his Government plans to instigate strikes in American manufacturing plants engaged in the production of munitions of war. The information reached this Government through a copy of a letter of the Ambassador to his Government. The bearer was an American citizen named Archibald, who was traveling under an American passport. The Ambassador has admitted that he employed Archibald to bear official despatches from him to his Government.

By reason of the admitted purpose and intent of Mr. Dumba to conspire to cripple legitimate industries of the people of the United States and to interrupt their legitimate trade, and by reason of the flagrant violation of diplomatic propriety in employing an American citizen protected by an American passport as a secret bearer of official despatches through the lines of the enemy of Austria-Hungary, the President directs me to inform your Excellency that Mr. Dumba is no longer acceptable to the Government of the United States as the Ambassador of His Imperial Majesty at Washington.

Believing that the Imperial and Royal Government will realize that the Government of the United States has no alternative but to request the recall of Mr. Dumba on account of his improper conduct, the Government of the United States expresses its deep regret that this course has become necessary and assures the Imperial and Royal Govern-

ment that it sincerely desires to continue the cordial and friendly relations which exist between the United States and Austria-Hungary.

LANSING.

Ambassador Penfield to the Secretary of State.

[Telegram—Paraphrase.]

AMERICAN EMBASSY,
Vienna, September 30, 1915.

Ambassador Penfield reports receipt of a note from the Minister for Foreign Affairs of Austria-Hungary replying to the Department's note of September 8, 1915.

The Austro-Hungarian Minister for Foreign Affairs states that he has learned that Mr. Dumba is no longer acceptable to the United States Government as Austro-Hungarian Ambassador, and inasmuch as cognizance of this information has been taken by the Austro-Hungarian Minister for Foreign Affairs, he has no doubt as to the conclusions to be drawn therefrom regarding Mr. Dumba's retention as Austro-Hungarian Ambassador in Washington. However, the Austro-Hungarian Minister for Foreign Affairs can not refrain from expressing the opinion that correspondence of a diplomatic character, especially between a Government and its Ambassador, regardless of the manner of transmission, should not, as has been the case in the department's note referred to, be made the subject of an official criticism from a Government to whose attention this correspondence could come only by an accident, and for which it was not intended. The sincere desire expressed by the United States Government that the relations between the two Governments should, as heretofore, still retain their friendly and cordial character, is likewise entertained by the Austro-Hungarian Minister for Foreign Affairs, and he avails himself of this opportunity to renew, etc.

PART VIII.

RECALL OF CAPTAIN VON PAPEN, MILITARY ATTACHÉ,
AND CAPTAIN BOY-ED, NAVAL ATTACHÉ, OF THE GER-
MAN EMBASSY AT WASHINGTON.

The Secretary of State to the German Ambassador.

No. 1686.]

DEPARTMENT OF STATE,
Washington, December 4, 1915.

EXCELLENCY: Confirming my conversation with you on December first, I have the honor to state that various facts and circumstances having come to the knowledge of the Government of the United States as to the connection of Captain Boy-Ed, Naval Attaché, and Captain von Papen, Military Attaché, of the Imperial German Embassy, with the illegal and questionable acts of certain persons within the United States, the President reached the conviction that the continued presence of these gentlemen as Attachés of the Embassy would no longer serve the purpose of their mission, and would be unacceptable to this Government.

The President, therefore, directed me to notify Your Excellency, as I did orally, that Captain Boy-Ed and Captain von Papen are no longer acceptable to the Government of the United States as Attachés of His Imperial Majesty's Embassy at Washington, and to request that your Excellency's Government withdraw them immediately from their official connection with the Imperial German Embassy.

As I informed you at the time of our interview, the Government of the United States deeply regrets that this action has become necessary and believes that the Imperial Government will realize that this Government has, in view of all the circumstances, no alternative course consistent with the interests of the two Governments in their relations with each other.

Accept, etc.,

ROBERT LANSING.

The Secretary of State to the German Ambassador.

DEPARTMENT OF STATE,
Washington, December 10, 1915.

MY DEAR MR. AMBASSADOR: On December 1st I informed Your Excellency that Captain Boy-Ed, the Naval Attaché of your Embassy, and Captain von Papen, the Military Attaché, were no longer *personæ gratae* to my Government and requested that the Imperial Government immediately recall the two attachés.

As ten days have passed without the request of this Government being complied with and without communication from you on the subject other than your personal letter of the 5th instant, which in no way affected the fact that the two attachés were unacceptable or presented a ground for delay, I feel compelled to direct your attention to the expectation of this Government that its request would be immediately granted.

I trust, my dear Mr. Ambassador, that you appreciate the situation and will urge upon your Government a prompt compliance with the request in order that this Government may not be compelled to take action without awaiting the recall of the attachés, an action which this Government does not desire to take but will be forced to take unless the Imperial Government meets the express wish of this Government without further delay. I need not impress upon Your Excellency the desirability of avoiding a circumstance which would increase the embarrassment of the present situation.

I am, etc.,

ROBERT LANSING.

The German Ambassador to the Secretary of State.

[Translation.]

J. Nr. A 8061.]

GERMAN EMBASSY,
Washington, December 10, 1915.

MR. SECRETARY OF STATE: In reply to your note No. 1686 of the 4th of this month, I have the honor to inform Your Excellency that his Majesty the Emperor and King has been most graciously pleased to recall the Naval Attaché of the Imperial Embassy, Captain Boy-Ed, and the Military Attaché, Captain von Papen.

I am instructed to beg Your Excellency to obtain for the above-named gentlemen and their servants, Gustav Winkow and Otto Mahlow, a safe conduct for the return trip to Germany from the Powers at war with the German Empire, and also to insure the trip of the successors of those gentlemen to the United States in the event of their being appointed by His Majesty.

Accept, etc.,

J. BERNSTORFF.

The Secretary of State to the German Ambassador.

DEPARTMENT OF STATE,
Washington, December 11, 1915.

EXCELLENCY: I have the honor to acknowledge the receipt of Your Excellency's note of the 10th instant, notifying me that His Majesty the Emperor and King has been pleased to recall Captain Boy-Ed, the Naval Attaché, and Captain von Papen, the Military Attaché, of the Imperial German Embassy, pursuant to this Government's request of the 4th instant.

In accordance with Your Excellency's wishes, I have had the honor to request of the Powers at war with the German Empire safe conducts for these gentlemen and their servants, Gustav Winkow and Otto Mahlow. Upon the receipt of notice that His Majesty the Emperor and King has designated the successors of these gentlemen, and after the Government of the United States has decided upon their acceptability, it will be my pleasure to request the Powers at war with the German Empire to provide safe conducts for their passage to the United States.

Accept, etc.,

ROBERT LANSING.

The Secretary of State to the German Ambassador.

DEPARTMENT OF STATE,
Washington, December 15, 1915.

MY DEAR MR. AMBASSADOR: I am advised by the British and French Ambassadors that safe conducts will be furnished to Captains Boy-Ed and von Papen for their return to Germany, it being understood that

they will take the southern route to Holland. The Ambassadors request information as to the vessel and date of sailing of the two gentlemen, which I hope you will furnish at your earliest convenience. It is also understood that they will, of course, perform no unneutral act, such as carrying dispatches to the German Government.

I am, etc.,

ROBERT LANSING.

The Secretary of State to the German Ambassador.

DEPARTMENT OF STATE,
Washington, December 18, 1915.

EXCELLENCY: I have the honor to acknowledge the receipt of your note of the 10th instant, by which I am advised that His Majesty the Emperor has recalled Captain Boy-Ed and Captain von Papen, Naval Attaché and Military Attaché, respectively, of your Embassy, and requested to obtain for these officers a safe conduct for their return trip to Germany.

I did not fail to place myself at once in communication with the British and French Ambassadors on the subject, and I have now the honor to transmit to Your Excellency two authenticated sets of copies of notes from them, which I am assured will be regarded by officers of the Allied cruisers as safe conducts, provided Captain Boy-Ed and Captain von Papen follow the south route via Holland. I further enclose a passport for each of these gentlemen.

Accept, etc.,

ROBERT LANSING.

PART IX.

STATUS OF ARMED MERCHANT VESSELS.

(See correspondence regarding Defensive Armament of Merchant Ships printed in Special Supplement, July, 1915, pp. 222-240, and correspondence regarding Warfare between Submarines and Armed Merchant Vessels, *supra*, pp. 310-341.)

Memorandum on the Status of Armed Merchant Vessels.

DEPARTMENT OF STATE,
Washington, March 25, 1916.

I.

The *status* of an armed merchant vessel of a belligerent is to be considered from two points of view: *First*, from that of a neutral when the vessel enters its ports; and, *second*, from that of an enemy when the vessel is on the high seas.

FIRST.—AN ARMED MERCHANT VESSEL IN NEUTRAL PORTS.

(1) It is necessary for a neutral Government to determine the *status* of an armed merchant vessel of belligerent nationality which enters its jurisdiction, in order that the Government may protect itself from responsibility for the destruction of life and property by permitting its ports to be used as bases of hostile operations by belligerent warships.

(2) If the vessel carries a commission or orders issued by a belligerent Government and directing it under penalty to conduct aggressive operations, or if it is conclusively shown to have conducted such operations, it should be regarded and treated as a warship.

(3) If sufficient evidence is wanting, a neutral Government, in order to safeguard itself from liability for failure to preserve its neutrality, may reasonably presume from the facts the *status* of an armed merchant vessel which frequents its waters. There is no settled rule of international law as to the sufficiency of evidence to establish such a presumption. As a result a neutral Government must decide for itself the suf-

iciency of the evidence which it requires to determine the character of the vessel. For the guidance of its port officers and other officials a neutral Government may therefore declare a standard of evidence, but such standard may be changed on account of the general conditions of naval warfare or modified on account of the circumstance of a particular case. These changes and modifications may be made at any time during the progress of the war, since the determination of the *status* of an armed merchant vessel in neutral waters may affect the liability of a neutral Government.

SECOND.—AN ARMED MERCHANT VESSEL ON THE HIGH SEAS.

(1) It is necessary for a belligerent warship to determine the *status* of an armed merchant vessel of an enemy encountered on the high seas, since the rights of life and property of belligerents and neutrals on board the vessel may be impaired if its *status* is that of an enemy warship.

(2) The determination of warlike character must rest in no case upon presumption but upon conclusive evidence, because the responsibility for the destruction of life and property depends on the actual facts of the case and can not be avoided or lessened by a standard of evidence which a belligerent may announce as creating a presumption of hostile character. On the other hand, to safeguard himself from possible liability for unwarranted destruction of life and property the belligerent should, in the absence of conclusive evidence, act on the presumption that an armed merchantman is of peaceful character.

(3) A presumption based solely on the presence of an armament on a merchant vessel of an enemy is not a sufficient reason for a belligerent to declare it to be a warship and proceed to attack it without regard to the rights of the persons on board. Conclusive evidence of a purpose to use the armament for aggression is essential. Consequently an armament which a neutral Government, seeking to perform its neutral duties, may presume to be intended for aggression, might in fact on the high seas be used solely for protection. A neutral Government has no opportunity to determine the purpose of an armament on a merchant vessel unless there is evidence in the ship's papers or other proof as to its previous use, so that the Government is justified in substituting an arbitrary rule of presumption in arriving at the *status* of the merchant vessel. On the other hand, a belligerent warship can on the high seas test by actual experience the purpose of an armament on an enemy merchant vessel, and so determine by direct evidence the *status* of the vessel.

SUMMARY.

The *status* of an armed merchant vessel as a warship in neutral waters may be determined, in the absence of documentary proof or conclusive evidence of previous aggressive conduct, by presumption derived from all the circumstances of the case.

The *status* of such vessel as a warship on the high seas must be determined only upon conclusive evidence of aggressive purpose, in the absence of which it is to be presumed that the vessel has a private and peaceable character, and it should be so treated by an enemy warship.

In brief, a neutral Government may proceed upon the presumption that an armed merchant vessel of belligerent nationality is armed for aggression, while a belligerent should proceed on the presumption that the vessel is armed for protection. Both of these presumptions may be overcome by evidence—the first by secondary or collateral evidence, since the fact to be established is negative in character; the second by primary and direct evidence, since the fact to be established is positive in character.

II.

The character of the evidence upon which the *status* of an armed merchant vessel of belligerent nationality is to be determined when visiting neutral waters and when traversing the high seas having been stated, it is important to consider the rights and duties of neutrals and belligerents as affected by the *status* of armed merchant vessels in neutral ports and on the high seas.

FIRST.—THE RELATIONS OF BELLIGERENTS AND NEUTRALS AS AFFECTED BY THE STATUS OF ARMED MERCHANT VESSELS IN NEUTRAL PORTS.

(1) It appears to be the established rule of international law that warships of a belligerent may enter neutral ports and accept limited hospitality there upon condition that they leave, as a rule, within 24 hours after their arrival.

(2) Belligerent warships are also entitled to take on fuel once in three months in ports of a neutral country.

(3) As a mode of enforcing these rules a neutral has the right to cause belligerent warships failing to comply with them, together, with their officers and crews, to be interned during the remainder of the war.

(4) Merchantmen of belligerent nationality, armed only for purposes

of protection against the enemy, are entitled to enter and leave neutral ports without hindrance in the course of legitimate trade.

(5) Armed merchantmen of belligerent nationality under a commission or orders of their Government to use, under penalty, their armament for aggressive purposes, or merchantmen which, without such commission or orders, have used their armaments for aggressive purposes, are not entitled to the same hospitality in neutral ports as peaceable armed merchantmen.

SECOND.—THE RELATIONS OF BELLIGERENTS AND NEUTRALS AS AFFECTED BY THE STATUS OF ARMED MERCHANT VESSELS ON THE HIGH SEAS.

(1) Innocent neutral property on the high seas can not legally be confiscated, but is subject to inspection by a belligerent. Resistance to inspection removes this immunity and subjects the property to condemnation by a prize court, which is charged with the preservation of the legal rights of the owners of neutral property.

(2) Neutral property engaged in contraband trade, breach of blockade, or unneutral service obtains the character of enemy property and is subject to seizure by a belligerent and condemnation by a prize court.

(3) When hostile and innocent property is mixed, as in the case of a neutral ship carrying a cargo which is entirely or partly contraband, this fact can only be determined by inspection. Such innocent property may be of uncertain character, as it has been frequently held that it is more or less contaminated by association with hostile property. For example, under the declaration of London (which, so far as the provisions covering this subject are concerned, has been adopted by all the belligerents) the presence of a cargo, which in bulk or value consists of 50 per cent contraband articles, impresses the ship with enemy character and subjects it to seizure and condemnation by a prize court.

(4) Enemy property, including ships and cargoes, is always subject to seizure and condemnation. Any enemy property taken by a belligerent on the high seas is a total loss to the owners. There is no redress in a prize court. The only means of avoiding loss is by flight or successful resistance. Enemy merchant ships have, therefore, the right to arm for the purpose of self-protection.

(5) A belligerent warship is any vessel which, under commission or orders of its Government imposing penalties or entitling it to prize money, is armed for the purpose of seeking and capturing or destroying enemy property or hostile neutral property on the seas. The size of

the vessel, strength of armament, and its defensive or offensive force are immaterial

(6) A belligerent warship has, incidental to the right of seizure, the right to visit and search all vessels on the high seas for the purpose of determining the hostile or innocent character of the vessels and their cargoes. If the hostile character of the property is known, however, the belligerent warship may seize the property without exercising the right of visit and search which is solely for the purpose of obtaining knowledge as to the character of the property. The attacking vessel must display its colors before exercising belligerents' rights.

(7) When a belligerent warship meets a merchantman on the high seas which is known to be enemy owned and attempts to capture the vessel, the latter may exercise its right of self-protection either by flight or by resistance. The right to capture and the right to prevent capture are recognized as equally justifiable.

(8) The exercise of the right of capture is limited, nevertheless, by certain accepted rules of conduct based on the principles of humanity and regard for innocent property, even if there is definite knowledge that some of the property, cargo as well as the vessel, is of enemy character. As a consequence of these limitations, it has become the established practice for warships to give merchant vessels an opportunity to surrender or submit to visit and search before attempting to seize them by force. The observance of this rule of naval warfare tends to prevent the loss of life of noncombatants and the destruction of innocent neutral property which would result from sudden attack.

(9) If, however, before a summons to surrender is given, a merchantman of belligerent nationality, aware of the approach of an enemy warship, uses its armament to keep the enemy at a distance, or after it has been summoned to surrender it resists or flees, the warship may properly exercise force to compel surrender.

(10) If the merchantman finally surrenders, the belligerent warship may release it or take it into custody. In the case of an enemy merchantman it may be sunk, but only if it is impossible to take it into port, and provided always that the persons on board are put in a place of safety. In the case of a neutral merchantman, the right to sink it in any circumstance is doubtful.

(11) A merchantman entitled to exercise the right of self-protection may do so when certain of attack by an enemy warship, otherwise the exercise of the right would be so restricted as to render it ineffectual.

There is a distinct difference, however, between the exercise of the right of self-protection and the act of cruising the seas in an armed vessel for the purpose of attacking enemy naval vessels.

(12) In the event that merchant ships of belligerent nationality are armed and under commission or orders to attack in all circumstances certain classes of enemy naval vessels for the purpose of destroying them, and are entitled to receive prize money for such service from their Government or are liable to a penalty for failure to obey the orders given, such merchant ships lose their *status* as peaceable merchant ships and are to a limited extent incorporated in the naval forces of their Government, even though it is not their sole occupation to conduct hostile operations.

(13) A vessel engaged intermittently in commerce and under a commission or orders of its Government imposing a penalty, in pursuing and attacking enemy naval craft, possesses a *status* tainted with a hostile purpose which it can not throw aside or assume at will. It should, therefore, be considered as an armed public vessel and receive the treatment of a warship by an enemy and by neutrals. Any person taking passage on such a vessel can not expect immunity other than that accorded persons who are on board a warship. A private vessel, engaged in seeking enemy naval craft, without such a commission or orders from its Government, stands in a relation to the enemy similar to that of a civilian who fires upon the organized military forces of a belligerent, and is entitled to no more considerate treatment.

PART X.

HOVERING OF BRITISH WARSHIPS NEAR THE TERRITORIAL WATERS OF THE UNITED STATES.

Collector of Customs Hamilton to the Secretary of the Treasury.

UNITED STATES CUSTOM SERVICE,
Norfolk, Va., November 20, 1915.

SIR: I have the honor to enclose herewith an affidavit filed in this office at 3 p. m. November 19th, by Charles Moller, Master of the Danish steamship *Vinland*. The affidavit is self-explanatory.

The Master of the *Vinland*, upon filing the affidavit, stated he was under instructions to remain here for the present, and his vessel has not offered to clear. The chart, which the affidavit sets forth as accompanying same, was delivered at this office to-day, November 20th. It is rather large and bulky, and is being held in this office subject to instructions.

Respectfully,

NORMAN R. HAMILTON.

[Inclosure.]

I, the undersigned, Captain Charles Moller, Master of the Danish steamship *Vinland*, herewith beg to make the following report to the American authorities concerned:

I left New York with my ship on the 10th day of November, 1915, at 5 a. m., in ballast, for Norfolk, Virginia, to load a cargo of coal for South America. At 7.15 a. m. dropped pilot at Scotland L. V., about 8.45 a. m. we sighted what later appeared to be a British warship, name unknown, steering a northerly course towards us. We changed our course immediately in order to get close under land and within the three-mile limit. When abreast of Sea Girt Light, the warship was bearing down on us, and closing in on us rapidly, and were presently hoisting signals for us to

stop. We ignored his signals but proceeded on our course, now only two miles off land and still getting closer. We, however, dipped our flag in salutation, which was answered by war vessel, at the same time pulling down his signal, but he did not give up following us. We approached the coast within one mile all the way.

At 11.30 a. m. passed Barnegat, one mile distant.

At 1.15 p. m. passed Brigantine L. V. on port bow.

At 5.35 p. m. passed Hereford Light, three miles distant.

At 6.35 p. m. passed McCries Gas Buoy, close inside.

Near Five Fathom Bank Light Vessel the darkness and haze setting in forced the British ship to get farther out, whereas we took the channel keeping close to the American coast. Between Hereford Light and McCries Gas Buoy, we again sighted the Br. warship coming around the light vessel, steering towards us. As it was impossible at this spot to keep within the three-mile limit, we took the Cape May Channel and anchored inside the Breakwater for the night. We left the Breakwater for Norfolk at 4 a. m. on the 12th, following the coast within the three-mile limit all the way. As it was hazy, nothing further was seen of the British warship. We arrived at Norfolk 8.15 p. m. Nov. 12th, 1915.

I have marked out our course on the accompanying chart and also the route of the warship which was inside the three mile limit when ordering us to stop.

My ship is in legitimate trade and was in transit from one American port to another American port, and I hereby make record of the occurrence as it happened within American territory, while at the same time I have asked my Government to protest against what is a violation of the International rules governing the seas.

CHAS. MOLLER,
Master, S. S. "Vinland."

STATE OF VIRGINIA, *City of Norfolk, to wit:*

Personally appeared before me, Charles Moller, whose name is signed to foregoing writing and declared same to be true and correct.

Given under my hand this 19th day of November, 1915.

L. B. FOSTER, N. P.

[SEAL.]

My commission expires May 7/17.

The British Ambassador to the Acting Secretary of State.

BRITISH EMBASSY,
Washington, November 27, 1915.

MY DEAR MR. ACTING SECRETARY: I hasten to acknowledge receipt of your letter of yesterday's date¹ informing me that according to an affidavit of the master of the Danish ship *Vinland* he was followed within the 3-mile limit by a British warship.

I have at once communicated the sense of your letter by telegraph to the British Naval authorities in order that an enquiry may be instituted, and I will not fail to communicate to you the results of such enquiry with as little delay as possible.

I am, etc.,

CECIL SPRING RICE.

The British Ambassador to the Secretary of State.

BRITISH EMBASSY,
Washington, December 1, 1915.

DEAR MR. SECRETARY: With further reference to Mr. Polk's informal letter of the 28th ultimo, respecting the statements made by the master of the steamship *Vinland* to the effect that he was followed by a British cruiser within American territorial waters, I have the honour to inform you that I have now received a short report from the British naval authorities with regard to this incident. A more detailed report is, I understand, being forwarded to me.

I am informed that the facts of the case are not as stated by the Master of the *Vinland*. The Admiral adds that the British ships of war employed in the Atlantic have strict orders against the violation of American territorial waters and he has every reason to believe that these orders have been carefully observed. I will not fail to communicate to you the detailed report as soon as it is received.

I am, etc.,

CECIL SPRING RICE.

¹ Not printed.

The British Ambassador to the Secretary of State.

No. 429.]

BRITISH EMBASSY,
Washington, December 11, 1915.

SIR: With reference to my personal note of the 1st instant, I have the honour to inform you that a more detailed report has now been received with regard to the case of the steamship *Vinland*, the master of which stated that he had been chased by a British cruiser within the territorial waters of the United States.

The captain of the cruiser in question states that at 11 a. m. on Wednesday, November 10, while he was steaming N. N. E. at 10 knots, with Barnegat Lighthouse abeam, distance 5 miles, a steamer was observed coming down ahead. At 11.10 a. m., when distant some three to four miles she altered her course and steered in straight for the shore. The Captain estimated that when she altered her course she was four miles from land.

Seeing that it would be impossible to stop her before she reached territorial waters the Captain of the British cruiser turned his ship round and stopped outside Barnegat Buoy, hoisting the signal "What ship." The *Vinland* replied only by hoisting Danish colours, proceeding down the coast well inside the three-mile limit.

The cruiser made no further signal, but followed the *Vinland* down the coast, keeping about six miles off. At 7 p. m., when off McCries Shoal Buoy, Cape May, the Captain of the cruiser received orders to return to his beat, and did so.

It is further reported that the cruiser was never within four and a half miles of the shore, nor within one mile of the *Vinland*. The cruiser was generally about three or four miles off the *Vinland*, and made no signals beyond that described above.

I am, etc.,

CECIL SPRING RICE.

The Secretary of State to the British Ambassador.

No. 1016.]

DEPARTMENT OF STATE,
Washington, December 16, 1915.

EXCELLENCY: With reference to Your Excellency's note of the 11th instant in regard to the case of the steamship *Vinland*, in which it is

stated that while His Majesty's Cruiser did not enter territorial waters of the United States, he "followed the *Vinland* down the coast" from Barnegat Lighthouse to off McCries Shoal Buoy, Cape May, where the Commander received orders to return to his "beat," which he did, I have the honor to refer to my informal notes of October 5¹ and December 22,¹ 1914, and April 16,¹ 1915, calling Your Excellency's attention to the annoyance which His Majesty's cruisers lying off the principal commercial ports of the United States and stopping and searching vessels immediately beyond American waters have given to shipping, both over-sea and coastwise, and to the seriousness with which the Government of the United States regarded the hovering of belligerent warships about American coasts and ports.

In reply to my informal notes Your Excellency was good enough to assure me that His Majesty's Government had issued instructions which would prevent further molestation of American commerce in the trade lanes approximate to American waters and to the great ports of the United States. I can not forbear, therefore, from calling the recent incident in which His Majesty's cruiser practically pursued a neutral vessel bound from one American port to another in ballast for the purpose of loading a cargo of coal for South America, to Your Excellency's attention. As His Majesty's Government is aware, this Government has always regarded the practice of belligerent cruisers patrolling American coasts in close proximity to the territorial waters of the United States and making the neighborhood a station for their observations as inconsistent with the treatment to be expected from the naval vessels of a friendly power in time of war, and has maintained that the consequent menace of such proceedings to the freedom of American commerce is vexatious and uncourteous to the United States.

I am constrained, therefore, to request that you lay this matter before His Majesty's Government with the earnest request that instructions be issued to His Majesty's ships to desist from a practice which this Government is convinced has been maintained for long periods at a time and which is peculiarly disagreeable to it and to American traders concerned.

Accept, etc.,

ROBERT LANSING.

¹ Not printed.

The British Ambassador to the Secretary of State.

BRITISH EMBASSY,
Washington, December 21, 1915.

SIR: I have the honour to acknowledge the receipt of your note No. 1016 of the 16th instant, in which, with special reference to the case of the Steamship *Vinland*, you refer to the question of belligerent cruisers patrolling the American coast, and request that the matter may be laid before His Majesty's Government with the earnest request that instructions be issued to His Majesty's ships to desist from a practice which the United States Government is convinced has been maintained for long periods at a time and which is peculiarly disagreeable—both to that Government and to American traders concerned.

Your note under reply has been communicated to His Majesty's Government, and I shall not fail to inform you of any further reply which I may be instructed to make on this subject.

I have, etc.,

CECIL SPRING RICE.

The Secretary of State to the British Ambassador.

No. 1026.]

DEPARTMENT OF STATE,
Washington, December 22, 1915.

EXCELLENCY: Referring to my note of December 16, 1915, in response to your note of the 11th instant, relative to the case of the steamship *Vinland*, which was followed by a British cruiser down the Atlantic coast from Barnegat Lighthouse to a point off McCries Shoal Buoy, Cape May, I have the honor to advise you of the receipt of a letter of December 15 from the Secretary of War, with which is enclosed a copy of a communication from the Commanding Officer, Coast Defense of Galveston, Fort Crockett, Texas, from which I quote as follows:

1. A British cruiser stood off the entrance to Galveston Harbor from about 10.00 a. m. to 1.00 p. m., Sunday, December 5, 1915. When asked her identity by signal from Fort San Jacinto she replied, "A registered British cruiser," and stated in reply to another query that she did not intend to enter the harbor.

2. The cruiser did not come within the three-mile limit.

I have, etc.,

ROBERT LANSING.

The British Ambassador to the Secretary of State.

BRITISH EMBASSY,
Washington, March 20, 1916.

SIR: I did not fail to communicate to my Government copies of your notes of December 16 and December 22, in which exception was taken to certain proceedings of His Majesty's ships off the United States coast. Referring particularly to the case of the *Vinland*, you reminded me that the United States Government had always regarded the practice of belligerent cruisers patrolling American coasts in close proximity to the territorial waters of the United States and making the neighbourhood a station for their observations as inconsistent with the treatment to be expected from the naval vessels of a friendly power in time of war and has maintained that the consequent menace of such proceedings to the freedom of American commerce is vexatious and uncourteous to the United States.

My Government has carefully studied the contents of your notes. They are impressed by the fact that no suggestion seems to be made in either of them that British cruisers enter at all within the territorial waters of the United States, and they note that, on the contrary, the effect of the notes is to take exception to proceedings of these vessels when navigating admittedly on the high seas. The objection appears, indeed, to rest upon a claim to distinguish between different parts of the high seas, a claim which causes surprise to His Majesty's Government, who are unaware of the existence of any rules or principles of international law which render belligerent operations which are legitimate in one part of the high seas illegitimate in another. Under these circumstances it appears desirable that the position taken up by the United States Government should be more clearly defined. I am therefore instructed to have recourse to your courtesy in order to obtain fuller information as to the precise nature and grounds of the claims which are made by your Government, as well as their extent, since my Government are most anxious to recognize to the full any claims of this nature which are well founded in law, but are naturally unable to make a concession of what they regard as their belligerent rights.

The rights asserted in this respect by the United States Government in previous wars will no doubt be conceded by the United States Government as well founded when exercised by others. It will be in your recollection that my predecessor, Lord Lyons, complained that Rear

Admiral Wilkes had ordered the vessels under his command to anchor in such a position as to control the movements of ships desiring to enter or to depart from the port of Bermuda, and that he maintained a system of cruising in the neutral waters of Bermuda in excess of his rights as a belligerent. The charge was thus of a far more serious nature than that which the United States Government now make against His Majesty's ships. Admiral Wilkes in his reply, which was communicated officially by Mr. Secretary of State Seward to His Majesty's Legation on January 15, 1863, asserted that his vessels "But maintained a system of cruising outside of the neutral waters of Bermuda in and under our rights as a belligerent." It is clear, therefore, that this officer of the United States Government considered that his proceedings were fully justified so long as he could maintain that they had been restricted to the very practice of which the United States Government now complain, though resorted to in a far less aggravated form by His Majesty's ships, and of which they appear actually to desire to impugn the legality.

I venture to enclose herewith extracts from the official records of the United States Navy in the War of the Rebellion which will illustrate the practice followed in that war by the United States ships when conducting belligerent operations in the neighborhood of neutral territory.

In this connection I may be permitted to point out that the number of enemy merchant ships now sheltering in harbours of the United States makes it necessary for His Majesty's Government to maintain their cruisers in a position where they can have the best chance of capturing these ships if they should attempt to escape. Another urgent reason for a close and constant watch, which no doubt will be appreciated by the Naval Authorities, is the fact which I have brought to the notice of your Department and which has since formed the subject of judicial proceedings—that enemy ships received supplies of coal and provisions from neutral vessels leaving American ports. You stated in your reply to my representations that the United States Government could not go further, in any suspicious case brought to its notice, than conduct an investigation in order to determine in every possible way whether the transaction appeared to be bona fide. And in the cases of this nature which were brought before the Courts the charge was not a breach of neutrality, but merely of making false manifests. Under these circumstances, as enemy cruisers were at sea and preying on the commerce of the allies while they drew their supplies from American ports, it was incumbent on His Majesty's cruisers to adopt such measures as were

possible in order to cut off such supplies; and for this reason it is necessary that British cruisers should maintain such a position on the high seas as to enable them to intercept such supply ships before they have accomplished their purpose.

I have the honour to add in conclusion that in communicating the foregoing considerations I am instructed by Sir Edward Grey to state that while His Majesty's Government can not abandon any of their rights, so far as they are in accordance with international law and the practice of the United States Government themselves, they will use their best endeavors in order that the exercise of such belligerent rights should be attended with as little inconvenience to neutrals as possible.

I have, etc.,

CECIL SPRING RICE.

[Inclosure.]

Report of Commander Ridgely, United States Navy, commanding U. S. S. *Santiago de Cuba*, Key West, January 5, 1863.

I left the anchorage off Great Stirrup Cay to visit the Windward Anchorages. On the 9th we passed through the passage between Eleuthera and Cat Islands into Exuma Sound and anchored the same day off Fernandez Cay. On the 9th and 10th we passed close along San Salvador and Conception Islands and Rum Cay, and on the evening of the 10th anchored at the N. E. end of Long Island off Dove Cay.

On the 12th we anchored off the S. End of Eleuthera.

I left Stirrup Cay for the cruising ground to the Northward of Abaco hoping to intercept vessels bound from Nassau to Charleston.

The *Octorara* is watching the Providence Channels.

All the places with the exception of Stirrup Cay are British. Commander Ridgely seems to have cruised in British waters and to have stopped at British ports for belligerent purposes.

Report of Lt. Baldwin, U. S. S. *Vanderbilt*, off St. Thomas February 25, 1863:

I came off St. Thomas with the intention of sending in a boat for information, when I received an order from Admiral Wilkes, who was in the harbour, to search the *Peterhoff*, which vessel had just sailed. I boarded her some five miles off the harbour.

Report from Lt. Baldwin, Barbados, March 7, 1862:

I sailed to join the U. S. S. *Alabama* at St. Pierre, Martinique. The *Alabama* having just arrived off the harbour, Commander Nichols communicated with our

Consul, I remaining outside * * *. The *Alabama* then examined the island of Dominica while I went to Point a Pitre, Guadeloupe. I left next morning, meeting as agreed the *Alabama* off Basse Terre, on the western side of that island. After consulting with Captain Nichols I proceeded to Isle de Aves, arranging that the *Alabama* should go to Sombrero and the Anegada passage and toward the N. side of Puerto Rico and the anchorage of the Virgin passage. I found nothing at the Isle of Aves, and after looking among the islands in the Virgin passage went off St. Thomas, intending to send a boat in for information. As I got off the harbour the English steamer *Peterhoff* was coming out; and at the same time I received an order from Admiral Wilkes, who was at anchor in the harbour, to search her and come in and anchor.

Admiral Wilkes, March 18, 1863:

For a single vessel to blockade these roadsteads it is almost impossible. I have resorted to the plan of having two—one to be anchored at Fort de France and the other at St. Pierre, only some eight miles distant.

Admiral Wilkes, March 20, 1863:

On the subject of the squadron lying at St. Thomas, apparently watching the contrabands, I had some conversation with the Governor. * * * I put it to him that there were vessels in the harbour preparing to run the blockade, and we were in these waters to prevent them if possible; that so far as the neutrality of the harbours and waters of these islands was concerned we should take care to observe it most strictly. * * * I should not complain of these vessels coaling and refitting, but when they reached the high seas we should act the part of a belligerent and overhaul them. * * * Therefore whether we lay at anchor or cruised off the port was of no consequence. * * *

Admiral Wilkes, April 5, 1863:

You will get your command in condition to cruise off the harbour and island of St. Thomas for the purpose of intercepting contraband runners. After you leave the inner harbour of St. Thomas you will anchor at times in the outer roads to procure information. * * * Bear in mind, however, that if a capture after examination proves necessary the neutrality limits must not be infringed upon.

(See the correspondence between the Governor of St. Thomas and Admiral Wilkes, of April 1863.)

The Admiral states in his letter to the Governor of May 13 that

The idea of our using your harbour to make preparations or of infringing upon your neutral territory has never been conceived. It will not appear that we have in any case done so, but, on the contrary, have avoided making captures when it was ascertained that we were within the limits of His Danish Majesty's territory.

(He then proceeds to describe the circumstances of the capture of the *Peterhoff*, the attempt to capture the *Neptune*, the capture of the *Dolphin*, and the boarding of the *Intrinsic*. All these ships were pursued after leaving the port by ships of the United States stationed for that purpose in or near the port.)

Report of Admiral Wilkes May 13 of his conversation with the Governor of Martinique:

We had looked closely along the shores for any vessels that might be secreted and felt we had a right to remain outside the neutral limit.

Instructions of Admiral Wilkes May 13 to Commander Bryson:

You will proceed to cruise off the North East Channel or Abaco, where you will arrive about the dark of the moon, the time the blockade runners depart.

(See Report of Commander Clary, U. S. S. *Tioga*, May 20, 1863.)

Cruising from Bemini * * * Matanilla Reef to along north end of Eleuthera to Cat Island and Exuma sound, returning to South Cays, Abaco Bahama, the Elbow, and Eastward.

Admiral Wilkes in his letter to the Secretary of the Navy of January 2 stated that "we but maintained a system of cruising outside of the neutral waters of Bermuda in and under our rights as a belligerent."

The United States ship *Iroquois* in November, 1861, hearing that the Confederate ship *Sumter* was in the port of St. Pierre, Martinique, stationed herself in the offing just beyond the marine league and kept up while there communication by boats with the shore and got the movements of the *Sumter* to be signalled to her. (See Report of Captain Palmer of November 17, November 23, and November 25, 1861.)

The Secretary of State to the British Ambassador.

No. 1152:]

DEPARTMENT OF STATE,
Washington, Apr 1 26, 1916.

EXCELLENCY: I have the honor to acknowledge your note of the 20th ultimo in the case of the *Vinland* and to state that I have not failed to give the matter set forth therein careful consideration.

Your Government ask for further information as to the precise nature and grounds of the claims made by this Government as they are most

anxious to recognize to the full extent any claims which are well founded in law, though unable to make a concession as to what they regard as their belligerent rights.

In reply it may be stated that the Government of the United States advances no claim that British vessels which have been and are cruising off American ports beyond the three-mile limit have not in so doing been within their strict legal rights under international law. The grounds for the objection of the Government of the United States to the continued presence of belligerent vessels of war cruising in close proximity to American ports are based, not upon the illegality of such action but upon the irritation which it naturally causes to a neutral country. The continued presence of British ships in the offings of the great American commercial centers is, I believe your Government will agree, an inevitable source of annoyance and offense. The cases of the *Vinland* and *Zealandia* show how belligerent vessels may be the cause of offense, and illustrate how the presence of vessels in such close proximity to the coast of a neutral country may easily become the cause of controversy.

The irritation aroused by such a practice was, during the American Civil War, manifested by Great Britain in the cases of the warships under the command of Rear Admiral Wilkes, U. S. N., to which you have called attention, and was the subject of protest by the British Government. The circumstances in those cases, however, were very different from the present, and the practice complained of far less offensive. The cruising, against which Great Britain protested, was done in the vicinity of small islands near the American coast which, after the blockade of the southern ports had been established, were used as rendezvous for vessels notoriously engaged in running the blockade. In the present case British cruisers are patrolling off the great ports of this country from which trade routes diverge to all parts of the world, particularly to Great Britain and her allies.

In this connection, as showing that for over a century the objections of this Government to British vessels hovering about the coasts have been maintained, I take the liberty of quoting from a letter of Mr. Madison, then Secretary of State, dated May 20, 1807, to Messrs. Monroe and Pinkney:

It is much regretted that provision could not be obtained against the practice of British cruisers in hovering and taking stations for the purpose of surprising trade going in and out of our harbours; a practice which the British Government felt to

be unjust to the dignity and rights of that nation at periods when it was neutral.

It is thus seen that the contention of this Government in the present war is in no way a departure from the attitude taken in the early days of the Republic, the conduct of American naval officers during the Civil War, referred to above, having at least the justification of having been carried out in proximity to the seat of naval operations.

The fact that a number of German merchant vessels are laid up in American ports during the present war is not, as Your Excellency would seem to suggest, sufficient cause for the strict surveillance to which those ports are subject by British ships of war; for, I may state to you, a considerable number of American naval vessels have been constantly engaged since the war opened—and, I think Your Excellency will admit, successfully engaged—in preventing the use of American ports as bases of naval operations. Furthermore, the alleged escape of vessels from American ports with supplies for German warships at sea, which has made it necessary, as you state, for His Majesty's vessels to take a position which would enable them to intercept such supply ships, can not now be regarded as a valid excuse for such action, because it is a matter of common knowledge that German warships have for many months been driven from the seas adjoining the coasts of the United States. In fact, Your Excellency has not called the possibility of the escape of supply ships to my attention since March, 1915. In the meantime, however, I have found it necessary to call your attention to certain instances of His Majesty's ships hovering off American ports and communicating with boats coming out from shore and even coaling in American waters.

Further reasons, if necessary, may be adduced to oppose the British practice. In time of peace the mobilization of an army, particularly if near the frontier, has often been regarded as a ground for serious offense and been made the subject of protest by the Government of a neighboring country. In the present war it has been the ground for a declaration of war and the beginning of hostilities. Upon the same principle the constant and menacing presence of cruisers on the high seas near the ports of a neutral country may be regarded according to the canons of international courtesy as a just ground for offense, although it may be strictly legal.

I have shown, I believe, that this Government's contention is supported not only by ample precedents extending through American and

British relations since the early years of the Republic and by the analogy in the mobilization of armed forces near an international boundary, but also by the lack of a sufficient excuse for such an objectionable practice as I have had the unpleasant duty of bringing to Your Excellency's attention. I trust, therefore, that your Government will be willing to recognize my Government's contention to the extent of instructing His Majesty's cruisers to withdraw from the vicinity of the territorial waters of the United States and remain at such distances from American harbors and coasts as to avoid the annoying and inquisitorial methods which have compelled this Government to complain formally to Your Excellency's Government.

I have, etc.,

ROBERT LANSING.

PART XI.

CASE OF THE BRITISH STEAMSHIP APPAM, CAPTURED BY
GERMAN NAVAL FORCES AND BROUGHT BY A PRIZE
CREW INTO AN AMERICAN PORT.

The German Ambassador to the Secretary of State.

[Translation.]

J. Nr. A. 785.]

GERMAN EMBASSY,
Washington, February 2, 1916.

MR. SECRETARY OF STATE: I have the honor to inform Your Excellency that the British steamer *Appam*, captured by the German naval forces, arrived at Newport News, Va., on the 1st of this month under the command of Lieut. Berg of the navy. The commanding officer intends, in accordance with Article XIX of the Prusso-American Treaty of September 10, 1785, to stay in an American port until further notice.

The *Appam* has not been converted into an auxiliary cruiser, is not armed, and has made no prize under Mr. Berg's command. She carries on board the crews of seven enemy vessels taken by H. M. S. *Moeve* who have been transferred to her by that ship.

There is on board a locked-up military party of the enemy, whose internment in the United States I request.

The crew of the *Appam* tried to offer resistance when the ship was captured, as the guns at hand were already in place and trained on the German warship. The members of the crew are therefore to be looked upon likewise as combatants, and I have the honor to ask of Your Excellency that they too be detained in the United States until the end of the war.

Accept, etc.,

J. BERNSTORFF.

The Secretary of State to the British Ambassador.

DEPARTMENT OF STATE,
Washington, February 3, 1916.

MY DEAR MR. AMBASSADOR: Referring to our conversation of to-day in regard to the steamer *Appam* now at Norfolk in charge of a German prize crew, I have received from the collector of customs in Norfolk a list (copy of which is inclosed)¹ of persons on board the *Appam* which the prize master asserts are in the military or naval service of His Britannic Majesty and whom he believes, therefore, should not be released from his vessel. I desire, therefore, to ask if you will be good enough to inform me as to whether any of the gentlemen named on the list are members of His Majesty's armed forces.

I am, etc.,

ROBERT LANSING.

Memorandum from the British Embassy.

BRITISH EMBASSY,
Washington, February 4, 1916.

The British Embassy has the honour to refer to the rule of international law now generally recognized and embodied in Articles 21 and 23 of The Hague Convention XIII of 1907 and to request that the principles in question should be applied to the *Appam*.

These principles have been accepted by both the British and the United States Governments. The Queen's Proclamation of 1861 interdicted the armed ships of belligerents from carrying prizes made by them into British ports, harbours, roadsteads, or waters, a measure of which the Secretary of State of the United States expressed his approval.

In the report of the American delegates to The Hague Conference it is stated that while Articles 21 and 22 seemed unobjectionable, Article 23 (allowing the sequestration of prizes) "was objectionable for the reason that it involves a neutral in participation in the war to the extent of giving asylum to a prize which the belligerent may not be able to conduct to a home port. This article represents the revival of an

¹ Not printed.

ancient abuse and should not be approved. In this connection it is proper to note that a proposition absolutely forbidding the destruction of a neutral prize, which was vigorously supported by England and the United States, failed of adoption. Had the proposition been adopted there would have been some reason for authorizing such an asylum to be afforded in the case of neutral prizes."

This declaration shows that the Prussian treaty of 1799 (by which in any case Great Britain, not being a party, can not be affected) was regarded as obsolete and inconsistent with modern doctrines, and the fact that the United States Government adhered to the convention while reserving Article 23 shows that in so far as the provisions of the treaty of 1799 conflict with the convention they are regarded as overridden by the later instrument.

The rule embodied in Article 21 of the 1907 Convention is of general application, and the fact that Great Britain has not ratified the convention does not affect the obligation of the United States to treat ships and property of all nations in accordance with what the attitude of the United States towards the convention shows that they themselves regarded as the general rule.

Relying on the above considerations this Embassy is instructed to request that if the *Appam* is regarded by the United States Government as a prize she should be restored to her owners and the prize crew interned.

The British Embassy begs to add that according to information received the captain of the German prize crew signalled on arrival that the ship was a part of the armed naval force of the German Empire. If this claim is advanced the United States Government will doubtless deal with the ship according to their recognized practice. If, however, she is regarded as a prize, this Embassy expresses its entire confidence that she will not be allowed to leave United States jurisdiction under German control in a condition which would enable her to undertake offensive action; and that she will not be allowed to increase or augment her force by adding to her armament or her crew or by transfer of trained men to the ship or by a change of personnel or in any other manner. The British Embassy begs to add that the claim that the ship was a war vessel shows that if allowed by the United States to leave as a prize under German control she would be used by the Germans as a man-of-war; and it is needless to remind the State Department of the doctrine accepted by both our Governments, under which the British Government

would be compelled to hold the United States Government responsible for any injury which she may inflict.

CECIL SPRING RICE.

Memorandum from the German Embassy.¹

Telegram from the German Government concerning its opinion on *Appam* case:

Appam is not an auxiliary cruiser but a prize. Therefore she must be dealt with according to Article 19 of Prusso-American Treaty of 1799. Article 21 of Hague Convention concerning neutrality at sea is not applicable, as this convention was not ratified by England and is therefore not binding in present war according to Article 28. The above-mentioned Article 19 authorizes a prize ship to remain in American ports as long as she pleases. Neither the ship nor the prize crew can therefore be interned nor can there be question of turning the prize over to English.

Memorandum from the British Embassy.

BRITISH EMBASSY,

Washington, February 12, 1916.

It has been ascertained from Norfolk that no restrictions are placed upon persons going on board the *Appam* at the invitation of her commander, though the latter reports daily to the collector of customs that all visitors have returned to the shore.

The British Embassy cannot but view this arrangement with some anxiety and, referring to their memorandum of February 3rd, beg to reiterate the expression of their confidence that adequate precautions are being taken with a view to preventing any increase in the armament or crew of the ship or any change in her personnel which would augment her force.

The present notification is not of course to be considered as a request for action or as a complaint, but is made in fulfilment of the duty incumbent on this Embassy to inform the State Department at once of any information which may reach them relative to matters appertaining to pending questions between the two Governments.

¹ Received at the Department of State February 8, 1916.

Memorandum from the British Embassy.

BRITISH EMBASSY,
Washington, February 15, 1916.

The British Embassy has the honour to inform the State Department that the British Government reserves all rights under accepted principles and practice of international law with regard to the *Appam*, and that any action taken in the matter by the owners in maintenance of their interests is not in any way to be considered as prejudicing any claim advanced or to be advanced by the British Government.

The German Ambassador to the Secretary of State.

J. Nr. A. 1293.]

GERMAN EMBASSY,
Washington, February 22, 1916.

MY DEAR MR. SECRETARY: Lieut. Hans Berg, of the German Imperial Navy and commander of H. M. S. *Appam*, now lying at anchor near Newport News, Va., has informed me that a libel was filed against said vessel in the United States District Court for the Eastern District of Virginia, at Norfolk, on the 16th day of February, 1916, by the British and African Steam Navigation Co., Limited, and that, under the authority of said court, he has been cited by the marshal of the eastern district of Virginia to appear before said court on Friday, the 3d day of March, 1916, to answer the said libel.

As the *Appam* was captured at sea by a German man-of-war and brought to the Virginian port as a prize ship according to the treaty existing between our countries, you may well appreciate my surprise at the action which has been taken.

Article XIX of the treaty of 1799 between Prussia and the United States, renewed in part by Article XII of the treaty of 1828, provides that "the vessels and effects taken from" the enemies of the contracting parties may be carried freely wheresoever they please, and that such prizes shall not be "put under legal process when they come to and enter the ports of the other party. * * *"

In view of the terms of the treaty, I am at a loss to understand why such action has been taken by a court of your country. It may be argued that it has been because Article 21 of The Hague "Convention

concerning the rights and duties of neutral powers in naval war" is applicable. This article provides:

A prize may only be brought into a neutral port on account of unseaworthiness, stress of weather, or want of fuel or provisions.

It must leave as soon as the circumstances which justified its entry are at an end. If it does not the neutral power must order it to leave at once; should it fail to obey the neutral power must employ the means at its disposal to release it with its officers and crew and to intern the crew.

But as Great Britain has not ratified the convention the article is not binding, for the reason that Article 28 provides: "The provisions of the present convention do not apply except to the contracting powers, and then only if all the belligerents are parties to the convention."

Besides, the *Appam* flies the naval flag of and belongs to the German Government, and therefore the possession of the captors in a neutral port is the possession of their sovereign. The sovereign whose officers have captured the vessel as a prize of war remains in possession of that vessel and has full power over her. The neutral sovereign or its court can take no cognizance of the question of prize or no prize and can not wrest from the possession of the captor a prize of war brought into its ports.

The position which I take is fully supported by an opinion of the Attorney General of the United States (7 Op., 122), the syllabus of which recites that a "foreign ship of war or any prize of hers in command of a public officer possesses in the ports of the United States the right of extritoriality and is not subject to the local jurisdiction."

I would therefore most respectfully protest against the action of the United States District Court, and request that you may ask the Attorney General to instruct the United States District Attorney for the Eastern District of Virginia to appear before the United States District Court and take such steps as may be necessary and proper to secure the prompt dismissal of the libel.

I am, etc.,

J. BERNSTORFF.

The Secretary of State to the German Ambassador.

DEPARTMENT OF STATE,
Washington, March 2, 1916.

EXCELLENCY: I have the honor to acknowledge the receipt of Your Excellency's note of the 2d of February, informing me that the British

steamer *Appam*, captured by the German naval forces, had arrived at Norfolk under the command of Lieut. Berg, of the Imperial German Navy, who intends, in accordance, as he believes, with Article XIX of the Prussian-American treaty of 1799, to remain in American waters until further notice, and that the *Appam* has not been converted into an auxiliary cruiser, is not armed, and has taken no prizes under Lieut. Berg's command. In conclusion Your Excellency requests internment in the United States during the remainder of the war of a military party belonging, Your Excellency states, to the enemy of Germany and also the internment of the crew of the *Appam*, inasmuch as they offered resistance to capture by His Majesty's forces.

I have the honor also to acknowledge the receipt of Your Excellency's note of February 22, calling my attention to a libel which has been filed against the *Appam* by the United States District Court on February 16 by the British and African Steam Navigation Co., Limited, and to the fact that Lieut. Berg has been cited to appear before the court on March 3 next to answer this libel. Your Excellency points out that in view of the terms of Article XIX of the treaty of 1799 and of the inoperation of The Hague Convention relating to neutral rights and duties in naval warfare, you are at a loss to understand why such action has been taken in this country. Your Excellency, moreover, asserts in effect that as the *Appam* flies the naval flag of and belongs to the German Government, and as the possession of the captors is the possession of their sovereign, "the neutral sovereign or its court can take no cognizance of the question of prize or no prize and can not wrest from the possession of the captor a prize of war brought into its ports." Your Excellency, in conclusion, protests against the action of the court and requests that the Attorney General instruct the proper United States District Attorney to take such steps as may be necessary and proper to secure the prompt dismissal of the libel.

Article XIX of the treaty of 1799, to which Your Excellency refers, reads as follows:

The vessels of war, public and private, of both parties, shall carry (*conduire*) freely, wheresoever they please, the vessels and effects taken (*pris*) from their enemies, without being obliged to pay any duties, charges, or fees to officers of admiralty, of the customs, or any others; nor shall such prizes (*prises*) be arrested, searched, or put under legal process, when they come to and enter the ports of the other party, but may freely be carried (*conduites*) out again at any time by their captors (*le vaisseau preneur*) to the places expressed in their commissions, which the commanding officer of such vessel (*le dit vaisseau*) shall be obliged to show. But conformably

to the treaties existing between the United States and Great Britain, no vessel (vaisseau) that shall have made a prize (prise) upon British subjects, shall have a right to shelter in the ports of the United States, but if (il est) forced therein by tempests, or any other danger or accident of the sea, they (il sera) shall be obliged to depart as soon as possible.

This translation is taken from the published treaties of the United States, and while not conforming strictly to the original French text (copy of which is inclosed), is sufficiently accurate for the purposes of this note. At the outset it may be pointed out that as the object of this provision was to mollify the existing practice of nations as to asylum for prizes brought into neutral ports by men-of-war, it is subject to a strict interpretation when its privileges are invoked in a given case in modification of the established rule. By a reasonable interpretation of Article XIX, however, it seems clear that it is applicable only to prizes which are brought into American ports by vessels of war. The *Appam*, however, as Your Excellency is aware, was not accompanied by a ship of war, but came into the port of Norfolk alone in charge of a prize master and crew. Moreover, the treaty article allows to capturing vessels the privileges of carrying out their prizes again "to the places expressed in their commissions." The commissions referred to are manifestly those of the captor vessels which accompany prizes into port and not those of the officers of the prizes arriving in port without convoy, and it is clear that the port of refuge was not to be made a port of ultimate destination or indefinite asylum. In the case of the *Appam* the commission of Lieut. Berg, a copy of which was given to the collector of customs at Norfolk, not only is a commission of a prize master, but directs him to bring the *Appam* to the nearest American port and "there to lay her up." In the opinion of the Government of the United States, therefore, the case of the *Appam* does not fall within the evident meaning of the treaty provision which contemplates temporary asylum for vessels of war accompanying prizes while en route to the places named in the commander's commission, but not the deposit of the spoils of war in an American port. In this interpretation of the treaty, which I believe is the only one warranted by the terms of the provision and by the British treaties referred to in Article XIX, and by other contemporaneous treaties, the Government of the United States considers itself free from any obligation to accord the *Appam* the privileges stipulated in Article XIX of the treaty of 1799.

Under this construction of the treaty the *Appam* can enjoy only those

privileges usually granted by maritime nations, including Germany, to prizes of war, namely, to enter neutral ports only on case of stress of weather, want of fuel and provisions, or necessity of repairs, but to leave as soon as the cause of their entry has been removed.

As to the grounds upon which the application for the libel of the *Appam* by the United States court was made, this Department has no direct information; but it is understood that the libelant contends that the *Appam* is not, assuming that it is a prize of the German Government, the property of that Government, but that, on the contrary, the title to the vessel is now properly in the British owners. Whether in these circumstances the United States court has properly or improperly assumed jurisdiction of the case and taken custody of the ship is a legal question which, according to American practice, must now be decided by the municipal courts of this country. With the purpose, however, of having Your Excellency's views as to this matter brought to the attention of the court, I have transmitted your note of February 22 to the Attorney General, with a request that he instruct the United States District Attorney to appear in the case as *amicus curiæ* and present to the court a copy of Your Excellency's note.

As to the internment of the military party which Your Excellency states was on board the *Appam*, as well as the officers and crew who offered resistance to capture by His Majesty's ships, I have the honor to inform you that the Government has, after due consideration, concluded that they should be released from detention on board the *Appam*, together with their personal effects.

Accept, etc.,

ROBERT LANSING.

The German Ambassador to the Secretary of State.

J. Nr. A. 1829.]

GERMAN EMBASSY,
Washington, March 14, 1916.

MY DEAR MR. SECRETARY: Referring to previous correspondence in regard to H. M. S. *Appam*, am informed by our counsel that the State and Treasury Departments, mainly through the collector of customs, have been requesting the District Court of the United States for the Eastern District of Virginia to guard against two things: (1) An augmentation of the crew of the *Appam*; and (2) an attempt on her part

to escape; and that such action would tend to disturb the peace of mind of the court.

While I can not understand on what theory the court can be asked to have anything to do with questions of augmentation, I can readily appreciate its desire to prevent any possible escape so long as court proceedings are pending.

In view of the action of the Departments, the court appears unwilling to permit the ship to continue in the stream with only two keepers, and has requested counsel to consent to her removal to a wharf or some safer anchorage.

Lieut. Berg objects to her being taken to a wharf on account of increased difficulty of controlling his crew, the danger of annoyance from curiosity seekers, and the possibility of injury from hostile sources.

Because of the divergent wishes in this respect, I believe that the court will be fully satisfied, and at the same time Lieut. Berg can carry out his wishes, if I now assure you, as I do, that, while reserving all the rights of the German Government in this case, both before the court and in our diplomatic negotiations, and with a further reservation that such assurance and agreement shall be without prejudice to the defense, no change shall be made in the status quo with respect to augmentation of the crew or equipment that might be considered a breach of neutrality, and that no attempt to run the vessel away will be made so long as said ship remains under the custody of said court.

I would therefore most respectfully request that you may communicate my assurance to the Treasury Department, and that both Departments may communicate, through the proper officers, with the court and inform it that, in view of my assurance, they have no further requests to make along this line at the present time, and that for the present it would not appear to be necessary that the ship be removed to a wharf.

In my note of February 22 I requested you to ask the Attorney General to instruct the United States District Attorney for the Eastern District of Virginia to appear before the United States District Court and take such steps as may be necessary and proper to secure the dismissal of the libel. At a hearing held before said court at Richmond, Va., on March 7, said attorney appeared and presented a copy of my said note of February 22 to you, but did not ask for the dismissal of the libel. In view of this fact, and believing at this time that his presence in said court will not be further necessary for assisting in arriving at a solution of the case, I would most respectfully request that you

may ask the Attorney General to instruct him not to appear further without securing express instructions so to do for such special reasons as your Government may have for so authorizing him.

I am etc.,

J. BERNSTORFF.

The German Ambassador to the Secretary of State.

[Translation.]

J. Nr. A. 1727.]

GERMAN EMBASSY,
Washington, March 16, 1916.

In reply to your kind note of the 2d instant, I have the honor, in compliance with instructions, to submit to you the inclosed memorandum of the Imperial Government on the subject that has been received by me.

Should the Government of the United States fail to concur in the Imperial Government's interpretation, the Imperial Government would propose that the construction of the treaty in question be referred to The Hague Court of Arbitration in the same way as the Imperial Government proposed in the *William P. Frye* case in Secretary of State von Jagow's note of November 29 last, to Mr. Gerard, ambassador of the United States at Berlin, provided that the status quo of the steamship *Appam* will remain unchanged throughout the arbitration proceedings and that the steamer will be allowed to remain with her prize crew in an American port during that time.

Accept, etc.,

J. BERNSTORFF.

[Inclosure.]

MEMORANDUM.

J. Nr. A 1727/16.]

GERMAN EMBASSY.

The Imperial Government does not consider correct the interpretation of the Department of State of Article 19 of the treaty of 1799 as given in the note.

The Department of State criticized that the *Appam* was not brought into port by a warship, but arrived only with a prize crew on board. The treaty of 1799, referring to prizes accompanied by a warship, speaks, of course, of commercial warfare as it was usual in those times and

which could be carried on by both parties only by privateers. This made it necessary that the prize was brought into port by the capturing vessel. The development of modern cruiser warfare, where, as a rule, the warship sends her prize into port by a military prize crew, can not render the stipulations of Article 19 of said treaty null and void. The prize masters and prize crew, who represent the authority of the belligerent State, now take the place which the capturing vessel held formerly. That such stipulations are not in contradiction to the general rules of international law, and that, therefore, the treaty is not subject to the especially strict interpretation given to it by the Department of State, is proved by Article 23 of The Hague Convention regarding neutrality on sea, which was adopted by a great majority, although under reservation by the United States, Great Britain, and Japan.

The Department of State missed in the commission of Lieut. Berg. an order to take the prize into a German port, as it is unwilling to admit the permanent internment of the German prize in an American port as a consequence of the treaty. As proved by the last but obsolete sentences of Article 19 of the treaty of 1785 and Article 19 of the treaty of 1799, the object of Article 19 is to grant asylum or shelter to prizes of one contracting party in the ports of the other party. The asylum naturally continues only as long as the prize crew is on board and the danger of being captured by enemy naval forces exists. Both premises prevail in this case. Lieut. Berg, an officer of the Imperial Navy, was commissioned by the commander of a German warship to seek with his prize in an American port the asylum guaranteed by the treaty. The opinion of the Department of State that the commission must mention a German port of destination for the prize is unfounded, as Article 19 only provides the freedom of the prize to leave for the places which are named in the commission, but does not make the right of asylum depend on such port being mentioned. Such an indication seems superfluous if the prize is conducted by a prize crew mustered from the Imperial Navy, for such crew has to bring the prize into a German port as soon as possible. At present the claim for asylum naturally still exists, considering the uneven distribution of the domination of the seas between the belligerents.

As long as the right of asylum lasts the jurisdiction of American courts over the prize is formally excluded by Article 19; a German prize court alone is competent. The opinion of the Department of State that the American courts must decide about the claims of the British shipping company is incompatible with the treaty stipulations.

It is therefore respectfully requested that the prize crew should be permitted to remain in the American port, and also that the legal steps before an American court should be suspended.

British Ambassador to the Secretary of State.

BRITISH EMBASSY,
Washington, March 31, 1916.

MY DEAR MR. SECRETARY: On February 3rd, last I had the honour, under instructions from my Government, to request that if the *Appam* were regarded by the United States Government as a prize she should be restored to her owners and the prize crew interned.

Since that date it has come to my knowledge that a proceeding has been brought in the Admiralty Court of the United States by the owners of the vessel for its restitution and that the court has taken jurisdiction of the suit. It appears that the vessel had been detained in an American port by the prize crew for more than two weeks before suit was instituted. I am informed that the vessel was in a seaworthy condition when brought into port and that the time which elapsed before the beginning of the suit was more than sufficient to supply any deficiencies of coal and provisions. The detention of the vessel for such a period of time was therefore a violation of the neutrality of the United States under the Law of Nations as expressed in Articles 21 and 22 of Convention 13 as formulated at The Hague in 1907 and as previously understood and applied among the nations.

I understand that the Admiralty Courts of the United States have jurisdiction to decree the restitution to the owners of a prize brought into an American port by a belligerent captor when there has been a violation of American neutrality on the part of the captor. It seems to me desirable and proper that such violation of American neutrality should be called to the court's attention, not only by the private owners of the captured vessel but also by the official representatives of the United States Government.

I have the honour to request that if the United States Government do not see their way clear to direct by executive order, as suggested in my note above referred to, the return of the vessel to her British owners, instructions may be given, should there be no objection, to the proper

representatives of the Department of Justice of the United States to appear in their official capacity before the United States District Court for the Eastern District of Virginia, in which the suit for the recovery of the steamship *Appam* is pending, and to represent to that court on behalf of the Government of the United States that the detention of the steamship *Appam* under the circumstances above set forth constituted a violation of the neutrality of the United States and apply to the court to direct the return of the vessel to her owners upon due proof of their ownership and of the facts constituting the violation of neutrality above set forth.

I am, etc.,

CECIL SPRING RICE.

The Secretary of State to the British Ambassador.

DEPARTMENT OF STATE,
Washington, April 4, 1916.

MY DEAR MR. AMBASSADOR: I have received your formal note of the 31st ultimo, in which you request that as the *Appam* had violated the neutrality of the United States by her staying in port up to the beginning of the suit now pending against her, such violation of American neutrality be called to the court's attention by the proper representatives of the Department of Justice on behalf of the Government of the United States, and that application be made to the court to direct the return of the vessel to the owners upon due proof of their ownership and of the facts constituting a violation of neutrality.

In reply, allow me to say that as the vessel was in American jurisdiction up until the time of the filing of the suit against her, pending consideration of the question as to whether she was entitled to the privileges claimed for her by the German Government by virtue of Article 19 of the treaty of 1799, and as this Government reached a decision on that question only after the libel had been filed, I am unable to accept your suggestion that the presence of the *Appam* in American waters, in the circumstances, constituted a violation of the neutrality of the United States. Holding this view, I regret that I am unable to comply with your request to have official representations made to the court in the sense of your note under acknowledgment

I am, etc.,

ROBERT LANSING.

The Secretary of State to the German Ambassador.

No. 2217.]

DEPARTMENT OF STATE,
Washington, April 7, 1916.

EXCELLENCY: I have the honor to acknowledge the receipt of your note of the 16th ultimo, inclosing a memorandum of the Imperial German Government on the subject of the *Appam*, now at Norfolk. The memorandum of the Imperial Government contends, in brief, that Article 19 of the treaty of 1799 "speaks, of course, of commercial warfare as it was usual in those times and which would be carried on by both parties only by privateers," and that the development of modern cruiser warfare, in which a prize master and crew representing the authority of a belligerent State now take the place which the convoying vessel formerly held, should govern the present interpretation of the treaty. The Government of the United States agrees with the German Government's statement that the treaty speaks of a mode of warfare in use at the time the treaty was negotiated. It is precisely for this reason that the Government of the United States does not believe that the treaty was intended to apply to circumstances of modern warfare which are essentially different from those in vogue at the close of the eighteenth century. The Government of the United States does not understand upon what ground the Imperial Government contends that a treaty granting concessions under specifically mentioned circumstances can be construed to apply to a situation involving other and different circumstances. To grant limited asylum in a neutral port to a prize accompanied by the capturing vessel is not the granting of a right of "laying up" in a neutral port a prize which arrives in the control of a prize master and crew.

- Your Excellency's Government further contends that Article 19, besides being applicable to modern conditions, is not contrary to the general rules of international law, and therefore not subject to a restricting interpretation, and in support of this cites as declaratory of the general rules of international law Article 23 of Hague Convention XIII. As indicated by the Imperial Government, the United States did not in the case of this convention, and never has, assented to the sequestration of prizes in its ports. The ground of this position of the United States is that it does not, in the opinion of this Government, comport with the obligations of a neutral power to allow its ports to be used either as a place of indefinite refuge for belligerent prizes or as a

place for their sequestration during the proceedings of prize courts. The contention of the Government of the United States in its note of March 2 in this case is consistent with this long-established and well-known policy of the American Government, in the light of which the treaty of 1799 was negotiated and has been enforced and applied. Provided the vessel enters an American port accompanied by a German naval vessel, Article 19 contemplates in the view of this Government merely temporary sojourn of the prize in an American port and not its sequestration there pending the decision of a prize court.

Holding the view that Article 19 is not applicable to the case of the *Appam*, this Government does not consider it necessary to discuss the contention of the Imperial Government that under Article 19 American courts are without jurisdiction to interfere with the prize, and for the same reason it can not accede to the request that the "legal steps before an American court should be suspended."

In Your Excellency's note transmitting the memorandum of your Government it is proposed that should this Government fail to concur in the contentions of the Imperial Government the construction of the treaty in question be referred to The Hague Court of Arbitration in the same way as the Imperial Government has proposed to do in the *William P. Frye* case, provided that the *status quo* of the *Appam* remain unchanged throughout the arbitration proceedings and that the steamer be allowed to remain with her prize crew in an American port during that time. It is regretted that this proposal which appeals to the principle of arbitration, of which this Government is an earnest advocate, can not be accepted in this particular case by the Government of the United States. Its acceptance would manifestly defeat the very object of the United States in its reservation to Article 23 of Convention XIII by allowing the prize to remain in an American port for an indefinite period while the arbitration proceedings were in progress, which might continue until after peace is restored. In this respect the case differs from that of the *William P. Frye*. Moreover, inasmuch as the *Appam* has been libeled in the United States District Court by the alleged owners, this Government, under the American system of government, in which the judicial and executive branches are entirely separate and independent, could not vouch for a continuance of the *status quo* of the prize during the progress of the arbitration proposed by the Imperial Government. The United States Court, having taken jurisdiction of the vessel, that jurisdiction can only be dissolved by judicial proceedings leading

to a decision of the court discharging the case—a procedure which the executive can not summarily terminate.

In these circumstances the Government of the United States can only accept the proposal of the German Government for the arbitration of the meaning of Article 19 of the treaty of 1799, upon the understanding that the *Appam* depart from the territorial jurisdiction of the United States, in the event that the libel is dismissed by the court and after she has had a reasonable time to take on board such supplies as may be necessary, in the judgment of this Government, for a voyage to the nearest port subject to the sovereignty of Germany; and failing this, that she be released and the prize master and crew be interned for the remainder of the war.

Accept, etc.,

ROBERT LANSING.

PART XII.

INTERFERENCES BY BELLIGERENTS WITH MAILS.

The Secretary of State to Ambassador W. H. Page.

[Telegram.]

DEPARTMENT OF STATE,
Washington, January 4, 1916.

Department advised that British customs authorities removed from Danish steamer *Oscar Second* 734 bags parcel mail en route from United States to Norway, Sweden, and Denmark; that British port authorities have removed from Swedish steamer *Stockholm* 58 bags parcel mail en route Gothenburg, Sweden, to New York; that 5,000 packages of merchandise, American property, have been seized by British authorities on the Danish steamer *United States* on her last trip to the United States; that customs authorities at Kirkwall, on December 18, seized 597 bags of parcel mail from steamer *Frederich VIII* manifested for Norway, Sweden, and Denmark. Other similar cases might be mentioned, such as that of the steamer *Heligolav*. Department inclined to regard parcel post articles as subject to same treatment as articles sent as express or freight in respect to belligerent search, seizure, and condemnation. On the other hand, parcel post articles are entitled to the usual exemptions of neutral trade, and the protests of the Government of the United States in regard to what constitutes the unlawful bringing in of ships for search in port, the illegality of so-called blockade by Great Britain, and the improper assumption of jurisdiction of vessels and cargoes apply to commerce using parcel post service for the transmission of commodities. Please bring this matter of parcel post formally to the attention of the British Government.

The Department is further informed that on December 23 the entire mails, including sealed mails and presumably the American diplomatic and consular pouches, from the United States to the Netherlands were removed by British authorities from the Dutch steamer *New Amsterdam*; that on December 20 the Dutch vessel *Noorder Dyke* was deprived

at the Downs of American mail from the United States to Rotterdam, and that these mails are still held by British authorities. Other similar instances could be mentioned, as the cases of the steamers *Rotterdam* and *Noordam*. The Department can not admit the right of British authorities to seize neutral vessels plying directly between American and neutral European ports without touching at British ports, to bring them into port, and, while there, to remove or censor mails carried by them. Modern practice generally recognizes that mails are not to be censored, confiscated, or destroyed on high seas, even when carried by belligerent mail ships. To attain same end by bringing such mail ships within British jurisdiction for purposes of search and then subjecting them to local regulations allowing censorship of mails can not be justified on the ground of national jurisdiction. In cases where neutral mail ships merely touch at British ports, the Department believes that British authorities have no international right to remove the sealed mails or to censor them on board ship. Mails on such ships never rightfully come into the custody of the British mail service, and that service is entirely without responsibility for their transit or safety.

As a result of British action, strong feeling is being aroused in this country on account of the loss of valuable letters, money orders, and drafts, and foreign banks are refusing to cash American drafts, owing to the absence of any security that the drafts will travel safely in the mails. Moreover, the detention of diplomatic and consular mail is an aggravating circumstance in a practice which is generally regarded in this country as vexatiously inquisitorial and without compensating military advantage to Great Britain. Please lay this matter immediately before the British Government in a formal and vigorous protest and press for a discontinuance of these unwarranted interferences with inviolable mails. Impress upon Sir Edward Grey the necessity for prompt action in this matter.

LANSING.

The French Ambassador to the Secretary of State.

[Translation.]

FRENCH EMBASSY,
Washington, April 3, 1916.

MR. SECRETARY OF STATE: My Government informs me that several neutral powers, the United States among them, have raised certain ob-

jections in regard to the action which the allies had to decide they must take with respect to mail matter on account of the fraud and violence exercised in that line by their enemies.

After long toleration those acts became so numerous and aggravated that it was no longer possible to acquiesce in their being indefinitely carried on. Hence the provisions which the allied Governments consider to be warranted by both the circumstances and the texts but which have nevertheless given rise to the above-mentioned objections.

These objections have been carefully examined and the French and English Governments have, in common accord, set forth in the inclosed memorandum the result of the said examination.

In transmitting, by order of my Government, that paper to Your Excellency, I am instructed to express to you the hope that you will kindly recognize the weight of the arguments therein presented in regard to an action which, besides, never was circumscribed by absolute rules of limitation. In your telegram of January 4, last, to the American ambassador at London and thereafter made public, Your Excellency only specified that: "Modern practice generally recognizes that mails are not to be censored, confiscated, or destroyed on high seas, even when carried by belligerent mail ships."

If, even before late events, those practices were not unanimously followed, Your Excellency will judge whether the arguments and facts set forth in the inclosed note do not amply justify, as we believe they do, our refraining from complying with them at present.

My instructions, on the other hand, warrant my assuring Your Excellency that precise instructions are issued not to subject innocent neutral mails and, of course, neutral diplomatic pouches to avoidable delay.

Be pleased, etc.,

JUSSERAND.

[Inclosure—Translation.]

MEMORANDUM RELATIVE TO POSTAL CORRESPONDENCE ON THE HIGH SEAS.

February 15, 1916.

The treatment of mail correspondence carried by sea has, in the course of the present war, been the object of various uncertainties, has occasioned some confusion, and at times given rise to criticisms which, for the sake of international relations and neutral commerce, the allied Governments deem it advisable to dispel.

It has always been and is the paramount object of postal services to receive, carry, and distribute written correspondence or missive letters.

By degrees recourse was had to the same services for the transmission of printed documents, then samples, valuables, and finally, under the name of "post parcels," almost every kind of merchandise, provided only that certain conditions were met in respect of weight, bulk, and packing.

It is also known that, when bearing postage stamps, any sealed wrapper, irrespective of its contents, weight, or bulk, may be mailed and is treated as a letter by the postal administrations.

The reflex action of the war on that state of things suggests the following remarks:

At the time of the second conference of The Hague in 1907, the Imperial German Government argued that the telegraph offering belligerents much quicker and safer means of communication than the post, there was no longer any interest in regarding, as theretofore, postal correspondence as apt to prove contraband by analogy and in disturbing its transmission through seizure and confiscation. Their confidence won by a proposition that looked so pacific, the other powers concurred. Article I of the eleventh Convention of The Hague of 1907 stipulates, as is known, that thenceforward postal correspondence on the high seas is "inviolable."

A first remark must be made with respect to the "post parcels."

The shipment of merchandise by "parcel post" is a mode of shipment and transportation analogous to shipment and transportation on way bills or bills of lading, with this difference, that the transportation is undertaken by the mail service, which moreover sometimes turns it over to common carriers, as is the case in France.

In no wise do such "parcels" constitute "letters" or "correspondence" or "despatches," and they are clearly not withdrawn in any way from the exercise of the rights of police, supervision, visitation, and eventual seizure which belong to belligerents as to all cargoes on the high seas.

This was shown notably in a communication of the Post Office Department of the United States addressed on April 8, 1915, to the French authorities and transmitting a statement in conformity therewith from the commander of the *Prinz Eitel Friedrich*, a vessel of the Imperial German Navy, regarding the post parcels shipped on the French mail steamer *Floride*, which the first-named cruiser had captured. (See Exhibit I.)

The allied Governments have also adopted this view, which in their opinion is fully founded in law and superabundantly justified by the facts.

Among many other examples it will be sufficient to cite: 1,302 post parcels, containing together 437.510 grams of india rubber for Hamburg (steamers *Tijuca*, *Bahia*, *Jaguaribe*, *Maranhao*, *Acre*, *Olinda*, *Para*, *Brazil*); or again, 69 post parcels, containing 400 revolvers for Germany via Amsterdam (S. S. *Gelria*).

As regards the forwarding of letters, wrappers, envelopes, and others entrusted to the postal services and generally contained in the mail bags of the post office of the countries which send them forth, the allied Governments bring the following consideration to the notice of the neutral Governments:

Between December 31, 1914, and December 31, 1915, the German or Austro-Hungarian naval authorities destroyed, without previous warning or visitation, 13 mail ships (see Exhibit 2) with the mail bags on board, coming from or going to neutral or allied countries, without any more concern about the inviolability of the despatches and correspondence they carried than about the lives of the inoffensive persons aboard the ships.

It has not come to the knowledge of the allied Governments that any protest touching postal correspondence was ever addressed to the Imperial Governments.

Under dates of August 11, 17, and 18, 1915, the neutral mail steamers *Iris* (Norwegian), *Haakon*, *VII* (Norwegian), *Germania* (Swedish) had the mail bags they carried from and to all places seized on the high seas by the German naval authorities; the letters and correspondence were censored by the German authorities, as proven by the photograph herein inclosed by way of illustration (Exhibit 3).¹

The allied Governments understand that subsequently the Imperial German Government, while announcing its intention to desist from such seizures, declared that the said seizures were and would be fully warranted in its opinion. According to the Imperial German Government, the eleventh Convention of The Hague of 1907, not having been ratified by all the powers at present engaged in the war, would be inapplicable.

Finally the supervision within the territories of the allies of various mail bags shipped on mail steamers that call at certain ports in the said territories more recently disclosed the presence in the wrappers, envelopes, and mail matter of contraband articles particularly sought after by the enemy, and notably: On board the S. S. *Tubantia*, arriving in

¹ Not printed.

Europe, 174½ pounds of india rubber, of which 101 pounds of the Para, highest grade, and seven parcels of wool; on board the S. S. *Medan*, seven parcels of crude rubber. That same supervision, exercised under the same conditions on mail bags from Europe which at first sight might have been supposed to contain nothing but correspondence, uncovered in the bags put on board the single mail steamer *Zaandyjk* (Dutch) not less than 368 parcels of miscellaneous goods.

The following letter from the German firm of G. Vogtman and Co., dated from Hamburg, No. 16, Glockengiesserwall, December 15, 1915, is particularly instructive:

[Translation.]

For some time past we have been receiving regularly from Para invoices of crude india rubber, and you might turn your attention to that line of business. The shipments are made in the shape of "Samples without value," registered, about 200 parcels in every mail, each containing about 320 grams of rubber, net. The trouble of doing up the parcels and the high cost of postage are amply covered by the high price commanded by the commodity here.

It is known that on December 15, 1915, crude india rubber, which the German State took all up, was worth about 25 marks per kilog, and, as the Hamburg merchant remarked, "ein guter verdienst nicht ausgeschlossenen ist" (a handsome profit is not barred out).

Hostile traffic, shut out of the mastery of the seas, thus resorted to hide in mail matter in order to get through all kinds of merchandise, contraband of war even included, apparently by imposing on the post office department of the neutral states.

From a legal standpoint, the right of belligerents to exercise police and supervision powers over vessels and particularly over what they carry has never, to the knowledge of the allied Governments, been subject to exceptions, not any more in regard to mail bags than in regard to any other cargo; nay more, as late as 1907 the letters and despatches themselves could be seized and confiscated.

By the eleventh Convention of The Hague and for the reasons above stated, the signatory powers waived the right to so seize despatches and declared postal correspondence to be inviolable.

The said inviolability only detracted from the public law as far as "correspondence"—that is to say, despatches or "missive letters"—are concerned, because, as we have seen, it was thought, rightfully or wrongfully, that belligerents having in the telegraph a better medium of correspondence, correspondence by mail was of no interest in warfare.

The result is, on the one hand, that inviolability does not apply to any mail matter that is not "correspondence"—that is to say, "missive letters"—and, on the other hand, that this inviolability would be given a wider scope than it possesses if it were regarded as exempting from any supervision goods and articles shipped by mail, even though they were contraband of war.

Under these conditions, the allied Governments announce:

1. That from the standpoint of their right of visitation and eventual arrest and seizure, merchandise shipped in post parcels needs not and shall not be treated otherwise than merchandise shipped in any other

mail.

2. That the inviolability of postal correspondence stipulated by the Eleventh Convention of The Hague of 1907 does not in any way affect the right of the allied Governments to visit and, if occasion arise, arrest and seize merchandise hidden in the wrappers, envelopes, or letters contained in the mail bags.

3. That true to their engagements and respectful of genuine "correspondence," the allied Governments will continue, for the present, to refrain on the high seas from seizing and confiscating such correspondence, letters, or despatches, and will insure their speediest possible transmission as soon as the sincerity of their character shall have been ascertained.

EXHIBIT 1.

POST OFFICE DEPARTMENT
SECOND ASSISTANT POSTMASTER GENERAL,

DIVISION OF FOREIGN MAILS,
Washington, April 8, 1915.

I have the honor to inform you that the German auxiliary cruiser *Prinz Eitel Friedrich* delivered to the post-master of Newport News, Va., on March 12, 144 mail bags for places in South America which had been transhipped from the French steamer *Floride* to the said cruiser before it sank the steamer. The despatches, which appeared to be intact, were sent to the New York office, whence they were forwarded to destination in the same condition and at the first opportunity.

In delivering to the officials at Newport News the aforesaid despatches the commander of the *Prinz Eitel Friedrich* declared that the post parcels on board the steamship *Floride* had been regarded as merchandise and not as correspondence; that is the reason why he did not

have them taken out of the *Floride* as the other mail matter was, but allowed them to sink with the vessel, basing his action on the Declaration of London, according to which parcels are merchandise and not correspondence.

I further inform you that the New York Post Office advised the Bordeaux office of these facts by means of a check slip.

EXHIBIT 2.

Mails destroyed by enemies from December 31, 1914, to December 31, 1915.

Names of ships.	Tonnage.	Dates.	Enemy ships.	Remarks.
1. <i>Highland Brae</i>	7,634	Dec. 31, 1914	<i>Kaiser Wilhelm.</i>	Mails and post parcels from Buenos Aires, Santiago, and Montevideo.
2. <i>Tokomaru</i> . . .	6,084	Jan. 30, 1915	Torpedoed by a German submarine.	Parcels and printed matter from New Zealand.
3. <i>Aguila</i>	2,114	Mar. 27, 1915	.....do.....	Mail for Madeira and the Canary Islands.
4. <i>Falaba</i>	4,806	Mar. 28, 1915	.....do.....	Mail and post parcels for West Africa.
5. <i>Lusitania</i> . . .	30,396	May 6, 1915	.....do.....	United States mail.
6. <i>Candidate</i> . . .	5,858	May 7, 1915	.....do.....	Post parcels for Jamaica.
7. <i>Arabic</i>	15,801	Aug. 19, 1915	.....do.....	Mail for the United States, Canada, etc.
8. <i>Hesperian</i> . . .	10,920	Sept. 4, 1915	.....do.....	Mail and post parcels for the United States and Canada.
9. <i>Silver Ash</i> . . .	3,753	Oct. 6, 1915	(?)	Mail of His British Majesty's ships.
10. <i>Linkmoor</i> . . .	4,306	Sept. 20, 1915	(?)	Do.
11. <i>Persia</i>	7,964	Dec. 29, 1915	Torpedoed ..	Mail and post parcels for the Near East.
12. <i>Ville de la Ciotat</i> (French).	6,390	Dec. 24, 1915	Sunk by a German submarine.	Far East mail.
13. <i>Author</i>	3,496	(?)	(?)	Africa mail.

The British Ambassador to the Secretary of State.

No. 85.]

BRITISH EMBASSY,
Washington, April 3, 1916.

SIR: I have the honour, by direction of Sir Edward Grey, His Majesty's Principal Secretary of State for Foreign Affairs, to transmit to you herewith a memorandum¹ stating the contentions of His Majesty's Government and the French Government in regard to their right to detain and examine parcels and letter mails on neutral vessels.

I have, etc.,

CECIL SPRING RICE.

The Secretary of State to the British Ambassador.²

No. 1186.]

DEPARTMENT OF STATE,
Washington, May 24, 1916.

EXCELLENCY: I have the honor to acknowledge receipt of Your Excellency's note of April 3, last, transmitting a memorandum dated February 15, 1916, and communicated in substance to the American Ambassador in London on February 28, in which are stated the contentions of the British and French Governments in regard to the right to detain and examine parcel and letter mails *en route* by sea between the United States and Europe.

After a discussion of the use of the mails for the transmission of "parcels" and of the limitations to be placed on "inviolable mail," the joint memorandum of February 15 closes with the following assertions:

1. That from the standpoint of their right of visitation and eventual arrest and seizure, merchandise shipped in post parcels needs not and shall not be treated otherwise than merchandise shipped in any other manner.
2. That the inviolability of postal correspondence stipulated by the Eleventh Convention of The Hague of 1907 does not in any way affect the right of the allied Governments to visit and, if occasion arise, arrest and seize merchandise hidden in the wrappers, envelopes, or letters contained in the mail bags.
3. That true to their engagements and respectful of genuine "correspondence," the allied Governments will continue, for the present, to refrain on the high seas

¹ Not printed. Identical with memorandum transmitted with the note of the French Ambassador, April 3, 1916, *supra*, p. 406.

² Same to the French Ambassador.

from seizing and confiscating such correspondence, letters, or despatches, and will insure their speediest possible transmission as soon as the sincerity of their character shall have been ascertained.

In reply the Government of the United States desires to state that it does not consider that the Postal Union Convention of 1906 necessarily applies to the interference by the British and French Governments with the oversea transportation of mails of which the Government of the United States complains. Furthermore, the allied powers appear to have overlooked the admission of the Government of the United States that post parcels may be treated as merchandise subject to the exercise of belligerent rights as recognized by international law. But the Government of the United States does not admit that such parcels are subject to the "exercise of the rights of police supervision, visitation, and eventual seizure which belongs to belligerents as to *all cargoes* on the high seas," as asserted in the joint note under acknowledgment.

It is noted with satisfaction that the British and French Governments do not claim, and, in the opinion of this Government, properly do not claim, that their so-called "blockade" measures are sufficient grounds upon which to base a right to interfere with all classes of mail matter in transit to or from the central powers. On the contrary, their contention appears to be that, as "genuine correspondence" is under conventional stipulation "inviolable," mail matter of other classes is subject to detention and examination. While the Government of the United States agrees that "genuine correspondence" mail is inviolable, it does not admit that belligerents may search other private sea-borne mails for any other purpose than to discover whether they contain articles of enemy ownership carried on belligerent vessels or articles of contraband transmitted under sealed cover as letter mail, though they may intercept at sea all mails coming out of and going into ports of the enemy's coasts which are effectively blockaded. The Governments of the United States, Great Britain, and France, however, appear to be in substantial agreement as to principle. The method of applying the principle is the chief cause of difference.

Though giving assurances that they consider "genuine correspondence" to be "inviolable," and that they will, "true to their engagements," refrain "on the high seas" from seizing and confiscating such correspondence, the allied Governments proceed to deprive neutral Governments of the benefits of these assurances by seizing and confiscating mail from vessels in port instead of at sea. They compel neutral ships without

just cause to enter their own ports or they induce shipping lines, through some form of duress, to send their mail ships *via* British ports, or they detain all vessels merely calling at British ports, thus acquiring by force or unjustifiable means an illegal jurisdiction. Acting upon this enforced jurisdiction, the authorities remove all mails, genuine correspondence as well as post parcels, take them to London, where every piece, even though of neutral origin and destination, is opened and critically examined to determine the "sincerity of their character," in accordance with the interpretation given that undefined phrase by the British and French censors. Finally the expurgated remainder is forwarded, frequently after irreparable delay, to its destination. Ships are detained *en route* to or from the United States or to or from other neutral countries, and mails are held and delayed for several days and, in some cases, for weeks and even months, even though not routed to ports of North Europe *via* British ports. This has been the procedure which has been practiced since the announcement of February 15, 1916. To some extent the same practice was followed before that date, calling forth the protest of this Government on January 4, 1916. But to that protest the memorandum under acknowledgment makes no reference and is entirely unresponsive. The Government of the United States must again insist with emphasis that the British and French Governments do not obtain rightful jurisdiction of ships by forcing or inducing them to visit their ports for the purpose of seizing their mails, or thereby obtain greater belligerent rights as to such ships than they could exercise on the high seas; for there is, in the opinion of the Government of the United States, no legal distinction between the seizure of mails at sea, which is announced as abandoned, and their seizure from vessels voluntarily or involuntarily in port. The British and French practice amounts to an unwarranted limitation on the use by neutrals of the world's highway for the transmission of correspondence. The practice actually followed by the allied powers must be said to justify the conclusion, therefore, that the announcement of February 15 was merely notice that one illegal practice had been abandoned to make place for the development of another more onerous and vexatious in character.

The present practice is a violation not only of the spirit of the announcement of February 15, but of the rule of The Hague Convention upon which it is concededly based. Aside from this, it is a violation of the prior practice of nations which Great Britain and her allies have in the past assisted to establish and maintain, notwithstanding the state-

ment in the memorandum that "as late as 1907 the letters and despatches themselves could be seized and confiscated." During the war between the United States and Mexico the United States forces allowed British steamers to enter and depart from the port of Vera Cruz without molesting the mails intended for inland points. During the American Civil War Lord Russell endeavored to induce the United States to concede that "Her Majesty's mails on board a private vessel should be exempted from visitation or detention." This exemption of mails was urged in October, 1862, in the case of British mails on board the *Adela*. On October 31 Secretary Seward announced that "public mails of any friendly or neutral power duly certified or authenticated as such shall not be searched or opened but be put as speedily as may be convenient on the way to their designated destination." In accordance with this announcement, the Government of the United States, in the case of the British steamship *Peterhoff*, which had been seized with her mails against the protest of Her Majesty's Government, had her mails forwarded to destination unopened.

The same rule was followed by France, as I am advised, in the Franco-Prussian War of 1870; by the United States in the Spanish-American War of 1898; by Great Britain in the South African War, in the case of the German mail steamers *Bundesrath* and *General*; by Japan and substantially by Russia in the Russo-Japanese War of 1904. And even in the present war, as the memorandum of Great Britain and France states, their enemy, Germany, has desisted from the practice of interfering with neutral mails, even on board belligerent steamers. This is illustrated by the case of the French steamer *Floride*, captured by the auxiliary cruiser *Prinz Eitel Friedrich*, cited by the British and French Governments in support of their argument regarding parcel mails. In this case the letter mails of the *Floride*, amounting to 144 sacks, were forwarded to their destination by the commander at the first opportunity upon arriving in the United States. It would seem, therefore, to be conclusively established that the interferences with mails of which this Government justly complains are wrong in principle and in practice.

The arbitrary methods employed by the British and French Governments have resulted most disastrously to citizens of the United States. Important papers which can never be duplicated, or can be duplicated only with great difficulty, such as United States patents for inventions, rare documents, legal papers relating to the settlement of estates, powers of attorney, fire insurance claims, income tax returns, and similar

matters have been lost. Delays in receiving shipping documents have caused great loss and inconvenience by preventing prompt delivery of goods. In the case of the MacNiff Horticultural Company, of New York, large shipments of plants and bulbs from Holland were, I am informed, frozen on the wharves because possession could not be obtained in the absence of documents relating to them which had been removed from the *New Amsterdam*, *Oosterdyk*, and *Rotterdam*. Business opportunities are lost by failure to transmit promptly bids, specifications, and contracts. The Standard Underground Cable Company, of Pittsburgh, for example, sent by mail a tender and specifications for certain proposed electrical works to be constructed in Christiania; after several weeks of waiting, the papers having failed to arrive, the American company was told that the bids could not be longer held open and the contract was awarded to a British competitor. Checks, drafts, money orders, securities, and similar property are lost or detained for weeks and months. Business correspondence relating to legitimate and *bona fide* trade between neutral countries, correspondence of a personal nature, and also certain official correspondence, such as money-order lists and other matter forwarded by Government departments, are detained, lost, or possibly destroyed. For instance, the Postmaster General informs me that certain international money-order lists from the United States to Germany, Greece, and other countries, and from Germany to the United States, sent through the mails, have not reached their destination, though despatched several months ago. It was necessary to have some of these lists duplicated and again dispatched by the steamship *Frederick VIII*, which sailed from New York on April 19, and from which all the mails intended for Germany have been taken and held in British jurisdiction. As a further example of the delay and loss consequent upon the British practice, the Postmaster General also sends me a copy of a letter from the British Postal Administration admitting that the mails were removed from the steamer *Medan* in the Downs on January 30, last, and not forwarded until some time "between the 2d of February and the 2d of March," and that 182 bags of these mails "were lost during transmission to Holland on the 26th day of February by the Dutch steamship *Mecklenburg*." The *Medan* arrived safely at Rotterdam a day or two after she left the Downs. Numerous complaints similar to the foregoing have been received by this Government, the details of which are available, but I believe I have cited sufficient facts to show the unprecedented and vexatious nature of the interference with

mails persisted in by British and French authorities. Not only are American commercial interests injured, but rights of property are violated and the rules of international law and custom are palpably disregarded. I can only add that this continuing offense has led to such losses to American citizens and to a possible responsibility of the United States to repair them, that this Government will be compelled in the near future to press claims for full reclamation upon the attention of His Majesty's Government and that of the French Republic.

The principle being plain and definite, and the present practice of the Governments of Great Britain and France being clearly in contravention of the principle, I will state more in detail the position of the Government of the United States in regard to the treatment of certain classes of sealed mails under a strict application of the principle upon which our Governments seem to be in general accord. The Government of the United States is inclined to the opinion that the class of mail matter which includes stocks, bonds, coupons, and similar securities is to be regarded as of the same nature as merchandise or other articles of property and subject to the same exercise of belligerent rights. Money orders, checks, drafts, notes, and other negotiable instruments which may pass as the equivalent of money are, it is considered, also to be classed as merchandise. Correspondence, including shipping documents, money-order lists, and papers of that character, even though relating to "enemy supplies or exports," unless carried on the same ship as the property referred to, are, in the opinion of this Government, to be regarded as "genuine correspondence," and entitled to unmolested passage.

The Government of the United States, in view of the improper methods employed by the British and French authorities in interrupting mails passing between the United States and other neutral countries and between the United States and the enemies of Great Britain, can no longer tolerate the wrongs which citizens of the United States have suffered and continue to suffer through these methods. To submit to a lawless practice of this character would open the door to repeated violations of international law by the belligerent powers on the ground of military necessity of which the violator would be the sole judge. Manifestly a neutral nation can not permit its rights on the high seas to be determined by belligerents or the exercise of those rights to be permitted or denied arbitrarily by the Government of a warring nation. The rights of neutrals are as sacred as the rights of belligerents and must be as strictly observed.

The Government of the United States, confident in the regard for international law and the rights of neutrals, which the British and French Governments have so often proclaimed and the disregard of which they have urged so vigorously against their enemies in the present war, expects the present practice of the British and French authorities in the treatment of mails from or to the United States to cease and belligerent rights, as exercised, to conform to the principle governing the passage of mail matter and to the recognized practice of nations. Only a radical change in the present British and French policy, restoring to the United States its full rights as a neutral power, will satisfy this Government.

I have, etc.,

ROBERT LANSING.

The British Ambassador to the Secretary of State.

No. 307.]

BRITISH EMBASSY,
Washington, October 12, 1916.

SIR: In conformity with instructions received from Viscount Grey, of Falldon, His Majesty's Principal Secretary of State for Foreign Affairs, I have the honor to transmit herewith copy of the memorandum,¹ agreed upon by His Majesty's Government and the French Government, embodying the joint reply of the Allies to your note of May 24 regarding the examination of the mails.

I have, etc.,

CECIL SPRING RICE.

[Inclosure—Translation.]

Confidential.

1. By a letter of May 24 last the Secretary of State of the United States was pleased to give the views of the American Government on the memorandum of the Allied Governments concerning mails found on merchant ships on the high seas.

2. The Allied Governments have found that their views agreed with those of the Government of the United States in regard to the Postal Union Convention, which is recognized on both sides to be foreign to the questions now under consideration; post parcels respectively recognized as being under the common rule of merchandise subject to the

¹ Identic memorandum received from the French Embassy.

exercise of belligerent rights, as provided by international law; the inspection of private mails to the end of ascertaining whether they do not contain contraband goods, and, if carried on an enemy ship, whether they do not contain enemy property. It is clear that that inspection which necessarily implies the opening of covers so as to verify the contents could not be carried on on board without being attended with great confusion, causing serious delay to the mails, passengers, and cargoes, and without causing for the letters in transit errors, losses, or at least great risk of miscarriage. That is the reason why the Allies had mail bags landed and sent to centers provided with the necessary force and equipment for prompt and regular handling. In all this the Allied Governments had no other object in view than to limit, as far as possible, the inconvenience that might result for innocent mails and neutral vessels from the legitimate exercise of their belligerent rights in respect to hostile correspondence.

3. The Government of the United States acknowledges it agrees with the Allied Governments as to principles, but expresses certain divergent views and certain criticism as to the methods observed by the Allies in applying these principles.

4. These divergencies of views and criticisms are as follows:

5. In the first place, according to the Government of the United States, the practice of the Allied Governments is said to be contrary to their own declaration, in that, while declaring themselves unwilling to seize and confiscate genuine mails on the high seas, they would obtain the same result by sending, with or without their consent, neutral vessels to Allied ports, there to effect the seizures and confiscations above referred to, and thus exercise over those vessels a more extensive belligerent right than that which is theirs on the high seas. According to the Government of the United States there should be, in point of law, no distinction to be made between seizure of mails on the high seas, which the Allies have declared they will not apply for the present, and the same seizure practiced on board ships that are, whether willingly or not, in an Allied port.

6. On this first point and as regards vessels summoned on the high seas and compelled to make for an Allied port, the Allied Governments have the honor to advise the Government of the United States that they have never subjected mails to a different treatment according as they were found on a neutral vessel on the high seas or on neutral vessels compelled to proceed to an Allied port, they have always ac-

knowledgeed that visits made in the port after a forced change of course must in this respect be on the same footing as a visit on the high seas, and the criticism formulated by the Government of the United States does not therefore seem warranted.

7. As to ships which of their own accord call at Allied ports it is important to point out that in this case they are really "voluntarily" making the call. In calling at an Allied port the master acts, not on any order from the Allied authorities, but solely carries out the instructions of the owner; neither are those instructions forced upon the said owner. In consideration of certain advantages derived from the call at an Allied port, of which he is at full liberty to enjoy or refuse the benefits, the owner instructs his captain to call at this or that port. He does not, in truth, undergo any constraint. In point of law the Allied Governments think it a rule generally accepted, particularly in the United States (*U. S. vs. Dickelman*, U. S. Supreme Court, 1875; 92 U. S. Rep., 520; *Scott's cases*, 264), that merchant ships which enter a foreign port thereby place themselves under the laws in force in that port, whether in time of war or of peace, and when martial law in is force in that port. It is therefore legitimate in the case of a neutral merchant ship entering an Allied port for the authorities of the Allied Governments to make sure that the vessel carries nothing inimical to their national defense before granting its clearance. It may be added that the practice of the Germans to make improper use of neutral mails and forward hostile correspondence, even official communications dealing with hostilities, under cover of apparently unoffensive envelopes mailed by neutrals to neutrals, made it necessary to examine mails from or to countries neighboring Germany under the same conditions as mails from or to Germany itself; but as a matter of course, mails from neutrals to neutrals that do not cover such improper uses have nothing to fear.

8. In the second place, according to the Government of the United States the practice now followed by the Allied Governments is contrary to the rule of convention 11 of The Hague, 1907, which they declare their willingness to apply, and would, besides, constitute a violation of the practice heretofore followed by nations.

9. In regard to the value to be attached to the eleventh convention of The Hague, 1907, it may first of all be observed that it only refers to mails found at sea and that it is entirely foreign to postal correspondence found on board ships in ports. In the second place, from the

standpoint of the peculiar circumstances of the present war, the Government of the United States is aware that that convention, as stated in the memorandum of the Allies, has not been signed or ratified by six of the belligerent powers (Bulgaria, Italy, Montenegro, Russia, Serbia, and Turkey); that for that very reason Germany availed itself of Article IX of the convention and denied, so far as it was concerned, the obligatory character in these stipulations; and that for these several reasons the convention possesses in truth but rather doubtful validity in law. In spite of it all, the Allied Governments are guided in the case of mails found on board ships in ports by the intentions expressly manifested in the conferences of The Hague sanctioned in the preamble to convention 11, and tending to protect pacific and innocent commerce only. Mails possessing that character are forwarded as quickly as circumstances permit. In regard to mails found on vessels at sea the Allied Governments have not for the present refused to observe the terms of the convention reasonably interpreted; but they have not admitted and can not admit that there is therein a final provision legally binding them, from which they could not possibly depart. The Allied Governments expressly reserve to themselves the right to do so in case enemy abuses and frauds, dissimulations and deceits should make such a measure necessary.

10. As for the practice previously followed by the powers in the time of former wars, no general rule can easily be seen therein prohibiting the belligerents from exercising on the open seas, as to postal correspondence, the right of supervision, surveillance, visitation, and, the case arising, seizure and confiscation, which international law confers upon them in the matter of any freight outside of the territorial waters and jurisdiction of the neutral powers.

11. On the high seas, under international law, it is for the belligerents to seek and prevent transportation or other acts by which neutral vessels may lend their coöperation and assistance to hostile operations of the enemy. Now, as has long ago been observed (among others, Lord Stowell in *The Atalanta*, 6 Robinson, 440, 1, English Prize Cases, 607; Scott's Cases, 780), a few lines of a letter delivered to an enemy may be as useful as or even more useful than a cargo of arms and ammunition to promote his war operations. The assistance rendered in such cases by the vessel carrying such a letter is as dangerous for the other belligerent as the assistance resulting from the transportation of military cargoes. As a matter of fact, experience has in the course of

the present war demonstrated the truth of this remark. Hostile acts which had been projected in mails have failed. Dangerous plots, from which even neutral countries are not safe at the hands of the enemy, were discovered in the mails and baffled. Finally the addressees of certain letters which the Allies had seen fit to respect have evidenced a satisfaction the hostile character of which removed every doubt as to the significance of those letters.

12. The report adopted by the Conference of The Hague in support of convention 11 leaves little doubt as to the former practice in the matter: "The seizure, opening the bags, examination, confiscation if need be, in all cases delay or even loss, are the fate usually awaiting mail bags carried by sea in time of war." (Second Peace Conference, Acts and Documents, vol. 1, p. 266.)

13. The American note of May 24, 1916, invokes the practice followed by the United States during the Mexican and Civil Wars; the practice followed by France in 1870; by the United States in 1898; by Great Britain in the South African War; by Japan and Russia in 1904; and now by Germany.

14. As regards the proceedings of the German Empire toward postal correspondence during the present war, the Allied Governments have informed the Government of the United States of the names of some of the mail steamers whose mail bags have been—not examined to be sure—but purely and simply destroyed at sea by the German naval authorities. Other names could very easily be added—the very recent case of the mail steamer *Hudiksvall* (Swedish), carrying 670 mail bags, may be cited.

15. The Allied Governments do not think that the criminal habit of sinking ships, passengers, and cargoes, or abandoning on the high seas the survivors of such calamities is, in the eyes of the Government of the United States, any justification for the destruction of the mail bags on board; and they do not deem it to the purpose to make a comparison between these destructive German proceedings and the acts of the Allies in supervising and examining enemy correspondence.

16. As to the practice of Russia and of Japan, it may be permitted to doubt that it was at variance with the method of the Allied Governments in the present war.

17. The imperial Russian decree of May 13-25, 1877, for the exercise of the right of visit and capture, provides, paragraph 7: "The following acts which are forbidden to neutrals are assimilated to contraband of

war: The carrying * * * of despatches and correspondence of the enemy." The Russian imperial decree of September 14, 1904, reproduces the same provision. The procedure followed in regard to the mail steamers, and the prize decisions bear witness that public or private mails found on board neutral vessels were examined, landed, and, when occasion arose, seized.

18. Thus, in May and July, 1904, postal correspondence carried on the steamships *Osiris* (British) and *Prinz Heinrich* (German) was examined by the Russian cruisers to see whether it contained Japanese correspondence. Thus, again, in July, 1904, the steamer *Calchas* (British), captured by Russian cruisers, had 16 bags of mail that had been shipped at Tacoma by the postal authorities of the United States seized on board and landed and the prize court of Vladivostock examined their contents, which it was recognized it could lawfully do. (Russian Prize Cases, p. 139.)

19. As regards the practice of Japan, the Japanese rules concerning prizes, dated March 15, 1904, made official enemy correspondence, with certain exceptions, contraband of war. They ordered the examination of mail bags on mail steamers unless there was on board an official of the Post Office, making a declaration in writing and under oath that the bags contained no contraband; it was even added that no account should be taken of such a declaration if there existed grave suspicions. On the other hand, the Japanese Prize Court rules acknowledged the power of those courts in the examination of prize cases to examine letters and correspondence found on board neutral vessels. (Takahashi, "International Law Applied to Russo-Japanese War," p. 568.)

20. The French practice during the war of 1870 is found outlined in the naval instructions of July 26, 1870, under which official dispatches were on principle assimilated to contraband, and official or private letters found on board captured vessels were to be sent immediately to the Minister of Marine. Subsequently the circumstances of war permitted of the rule in additional instructions, under which, if the vessel to be visited was a mail steamer having on board an official of the post office of the Government whose flag she displayed, the visiting officer might be content with that official's declaration regarding the nature of the dispatches.

21. During the South African War the British Government was able to limit its intervention in the forwarding of postal correspondence and mails as far as the circumstances of that war allowed, but it did

not cease to exercise its supervision of the mails intended for the enemy.

22. As to the practice followed by the Government of the United States during the American Civil War, particularly in the *Peterhoff* case, cited in the American memorandum of May 24, 1916, the following instructions issued in that case by the Secretary of State of the United States do not seem to imply anything but the forwarding of correspondence which has been found to be innocent: "I have, therefore, to recommend that in this case, if the district attorney has any evidence to show the mails are simulated and not genuine, it shall be submitted to the court; if there be no reasonable grounds for that belief, then that they be put on their way to their original destination." (Letter of Mr. Seward, Secretary of State, to Mr. Welles, Secretary of the Navy, April 15, 1863; VII Moore's Dig., p. 482.)

23. Finally, as regards the free transit granted to mails by the United States during the Mexican War, one may be allowed to recall the circumstances under which this proceeding was adopted. By a letter dated May 20, 1846, notified on the following 10th of July, the commander of the United States cruiser *St. Mary*, announced the blockade of the port of Tampico. Although that measure authorized, without a doubt, the seizure and confiscation of all correspondence for the blockaded port, the American naval authorities, on learning the circumstances of the case, declared "Neutral noncommercial mail packets are free to enter and depart," and it was even added that "Mexican boats engaged exclusively in fishing will be allowed to pursue their labour unmolested." (British State Papers, vol. 35, 1846-47.)

24. It seems difficult to compare the blockade of the port of Tampico in 1846 with the measures taken by the Allies in the course of this war to reduce the economic resistance of the German Empire, or to find in the method then adopted by the United States a precedent which condemns the practice now put in use by the Allied Governments.

25. To waive the right to visit mail steamers and mail bags intended for the enemy seemed in the past (Dr. Lushington, "Naval Prize Law," Introd., p. vii) a sacrifice which hardly could be expected of belligerents. The Allied Governments have again noted in their preceding memorandum how and why, relying on certain declarations of Germany, they had thought in the course of the Second Peace Conference of 1907 they could afford to waive that right. They have also drawn the attention of the Government of the United States to the fraudulent use Germany

hastened to make of this waiver of the previous practices above mentioned.

26. After pointing to a certain number of specific cases where American interests happened to be injured from the postal supervision exercised by the British authorities, forming the subject of the special memorandum of the Government of His Majesty, dated July 20, 1916, the Government of the United States was pleased to make known its views as to what is to be and is not to be recognized as not possessing the charter of postal correspondence.

27. In this respect the Government of the United States admits that shares, bonds, coupons, and other valuable papers; money orders, checks, drafts, bills of exchange, and other negotiable papers, being the equivalent of money, may, when included in postal shipments, be considered as of the same nature as merchandise and other property, and therefore be also subjected to the exercise of belligerent rights.

28. Yet the American memorandum adds that correspondence, including shipping documents, lists of money orders, and documents of this nature, even though referring to shipments to or exports by the enemy, must be treated as mail and pass freely unless they refer to merchandise on the same ship that is liable to capture.

29. As regards shipping documents and commercial correspondence found on neutral vessels, even in an Allied port and offering no interest of consequence as affecting the war, the Allied Governments have instructed their authorities not to stop them but to see that they are forwarded with as little delay as possible. Mail matter of that nature must be forwarded to destination as far as practicable on the very ship on which it was found or by a speedier route, as is the case for certain mails inspected in Great Britain.

30. As for the lists of money orders to which the Government of the United States assigns the character of ordinary mail, the Allied Governments deem it their duty to draw the attention of the Government of the Government of the United States to the following practical consideration:

31. As a matter of fact, the lists of money orders mailed from the United States to Germany and Austria-Hungary correspond to moneys paid in the United States and payable by the German and Austro-Hungarian post offices. Those lists acquaint those post offices with the sums that have been paid there which in consequence they have to pay to the addressees. In practice, such payment is at the disposal of such

addressees and is effected directly to them as soon as those lists arrive and without the requirement of the individual orders having come into the hands of the addressees. These lists are thus really actual money orders transmitted in lump in favor of several addressees. Nothing, in the opinion of the Allied Governments, seems to justify the liberty granted to the enemy country so to receive funds intended to supply by that amount its financial resisting power.

32. The American memorandum sees fit firmly to recall that neutral and belligerent rights are equally sacred and must be strictly respected. The Allied Governments, so far as they are concerned, wholly share that view. They are sincerely striving to avoid an encroachment by the exercise of their belligerent rights on the legitimate exercise of the rights of innocent neutral commerce, but they hold that it is their belligerent right to exercise on the high seas the supervision granted them by international law to impede any transportation intended to aid their enemy in the conduct of the war and to uphold his resistance. The rights of the United States as a neutral power can not, in our opinion, imply the protection granted by the Federal Government to shipments, invoices, correspondence, or communications in any shape whatever having an open or concealed hostile character and with a direct or indirect hostile destination, which American private persons can only effect at their own risk and peril. That is the very principle which was expressly stated by the President of the United States in his neutrality proclamation.

33. Furthermore, should any abuses, grave errors, or derelictions committed by the Allied authorities charged with the duty of inspecting mails be disclosed to the Governments of France and Great Britain, they are now as they ever were ready to settle responsibility therefor in accordance with the principles of law and justice which it never was and is not now their intention to evade.

PART XIII.

REMOVAL OF ENEMY SUBJECTS FROM AMERICAN
VESSELS.

The Secretary of State to Ambassador W. H. Page.

[Telegram—Paraphrase.]

DEPARTMENT OF STATE,
Washington, February 23, 1916.

Mr. Lansing informs Mr. Page that the Department is advised by American consuls in Hongkong, Nagasaki, and Shanghai, and by the owners of the American steamship *China*, that on the 18th instant the British cruiser *Laurentic* stopped the *China* on the high seas, about 10 miles from the entrance to the Yangtzekiang, boarded her with an armed party, and, despite the captain's protest, removed from the vessel 28 Germans, 8 Austrians, and 2 Turks, including physicians and merchants, and took them to Hongkong, where they are detained as prisoners in the military barracks. As it is understood that none of the men taken from the *China* were incorporated in the armed forces of the enemies of Great Britain, the action of the *Laurentic* must be regarded by this Government as an unwarranted invasion of the sovereignty of American vessels on the high seas. After the notice given to the British Government of this Government's attitude in the *Piepenbrink* case¹ in March, last, which was based upon the principle contended for by Earl Russell in the *Trent* case, this Government is surprised at this exercise of belligerent power on the high seas far removed from the zone of hostile operations. Ambassador Page is directed to present this matter to the Government of Great Britain at once and to insist vigorously that if facts are as reported, orders be given for the immediate release of the persons taken from the *China*.

¹ For the correspondence in the *Piepenbrink* case, see Special Supplement, July, 1915, pp. 353-360.

Ambassador W. H. Page to the Secretary of State.

No. 3259.]

AMERICAN EMBASSY,
London, March 17, 1916.

SIR: With reference to the Department's telegram No. 2924, of February 23, 1916, protesting against the removal of 38 enemy subjects of Great Britain by the British ship *Laurentic* from the steamship *China* on the high seas off the entrance to the Yangtse River, I have the honor to inclose herewith a copy of a note, dated the 16th instant, from the Foreign Office in reply to the representations I made to Sir Edward Grey in the premises.

I have, etc.,

WALTER HINES PAGE.

[Inclosure.]

The British Secretary of State for Foreign Affairs to Ambassador W. H. Page.

FOREIGN OFFICE,
March 16, 1916.

YOUR EXCELLENCY: His Majesty's Government have given the most careful consideration to the memorandum which Your Excellency was good enough to communicate to me on the 24th ultimo, conveying a protest from the United States Government against the removal of 38 enemy subjects by His Majesty's ship *Laurentic* from the steamship *China* on the high seas off the entrance to the Yangtse River, and I now have the honour to offer the following observations as an expression of the views of His Majesty's Government in regard to the matter.

The latest attempt to define by common agreement the limits within which a belligerent naval power may remove enemy persons from neutral ships on the high seas is represented by Article 47 of the Declaration of London, 1909. This article permitted the arrest of such persons if "embodied in the armed forces of the enemy," without regard to the destination of the ship on which they were found travelling. The commentary on Article 45 of the Declaration contained in the Report of the Drafting Committee of the London Naval Conference states that on practical, not legal, grounds it was agreed that the term "embodied in the armed forces of the enemy" should be considered as not including reservists not yet attached to their military units.

At the beginning of the war His Majesty's Government adhered to

Articles 45 and 47 of the Declaration of London, as interpreted by the Report of the Drafting Committee. They took this step as a matter of convenience, being at liberty, as the Declaration was an unratified instrument, to cancel at any time their adherence, provided always that their subsequent action did not conflict with the general principles of international law. When the German authorities began to remove able-bodied persons of military age from the occupied portions of France and Belgium, His Majesty's Government, as indicated in the circular note which I had the honour to address on the 4th November, 1914, to the representatives of neutral powers in London, felt that they could no longer accept the restrictive interpretation placed for practical reasons on the terms of Article 47 of the Declaration of London by the Report of the Drafting Committee, and that they must arrest all enemy reservists found on board neutral ships on the high seas, no matter where they might be met.

I am aware that the United States Government, after their suggestion early in the war that the belligerent powers should adopt the Declaration of London in its entirety as a code of international naval law, did not find general acceptance, have declared that they no longer consider the Declaration as being in force. I have referred at some length to the bearings of the Declaration on the position of His Majesty's Government in this question, because Article 47 represents the latest, if not the only, attempt to arrive at a definition, by common consent of the chief maritime nations of the law in regard to the matter. The attempt was necessarily conditioned by the experience of previous wars, and the definition was reached after weighing the claims and the convenience of neutral shipping against the importance to belligerent powers, as shown by the experience of previous wars, of preventing enemy subjects from proceeding to their destination and pursuing the hostile purposes for which they were organized.

It is evident, however, from the foregoing observations that the principle (often contended for in the past by certain continental nations) that there are certain classes of persons who are not protected by a neutral flag on the high seas and may therefore without any invasion of the sovereign rights of the neutral be removed from a neutral ship is now generally admitted. The carriage of such persons may in some cases amount to unneutral service, rendering the ship liable to condemnation; but even when this is not so, the removal of such persons from a neutral ship by a belligerent does not justify any complaint by the neu-

tral state concerned. The question in the present case, is therefore, whether the character and position of the persons removed from the *China* were such as to bring the case within the principle enunciated above.

The present war has shown that the belligerent activity of the enemies of this country is by no means confined to the actual theatres of military and naval operations and that there is no limit to the methods by which Germany in particular seeks to secure a victory for her arms. The hostile efforts of the enemy have shown, and continue to show, themselves on neutral soil in many parts of the world in political intrigues, revolutionary plots, schemes for attacking the sea-borne trade of this country and her allies, endeavours to facilitate the operations of ships engaged in this task, and in criminal enterprises of different kinds directed against the property of neutrals and belligerents alike. War has in effect been extended far beyond the bounds of the area in which opposing armies manœuvre, and an unscrupulous belligerent may inflict the deadliest blows on his enemy in regions remote from actual fighting. It may be recalled that a certain Lieut. Robert Fay, of the German Army, was reported in the press last autumn to have been detected experimenting with bombs designed to destroy merchant ships leaving America and operating in the interests of the enemies of Germany. He was said to have admitted that he was sent by the German authorities to the United States expressly for this purpose. His Majesty's Government are not aware what degree of truth there may be in this story, but numerous incidents in America and elsewhere have shown that the facts may be as stated and may be typical.

It is then evidently of the greatest importance for a belligerent power to intercept on the high seas not only mobilized members of the opposing army who may be found travelling on neutral ships, but also those agents whom the enemy sends to injure his opponent abroad or whose services he enjoys without having himself commissioned them. Practical considerations from the belligerents' point of view have changed, and the change necessarily implies a modification in the precise description of enemy subjects whom it is lawful to arrest, supposing such a precise description can be said to have existed in any binding form.

I may add that the action of the United States Government in forwarding requests for safe conducts for agents of states at war with this country whose actions had been such that their continued presence in the United States could no longer be tolerated affords a strong indi-

cation that the right to remove certain classes of persons from neutral ships can, in the circumstances of this present war, not be confined to persons embodied in the armed forces of a belligerent.

I may add for the confidential information of the Government of the United States that from actual occurrences and from reliable information received it has been definitely established that the Germans resident in Shanghai have been engaged for some time past in the collection of arms and ammunition, both for clandestine transmission to India and, if possible, for the arming of a ship to play the part of a Far Eastern *Mæve*. His Majesty's Government were able to cope with this activity to a considerable extent and obtained the arrest of various German agents caught in the act of attempting to smuggle arms out of Shanghai; further, the Germans became aware that His Majesty's Government knew of their plots. The commander-in-chief, China station, received information that owing to this fact the Germans were planning to shift the centre of their activity from Shanghai to Manila. Subsequently he was definitely informed that 35 Germans had planned to leave Shanghai in the steamship *China* and proceed to Manila.

His Majesty's ships were sent to patrol off the mouth of the Yangtze with the view of intercepting this party. The date of the *China's* departure was more than once postponed, but she eventually sailed, was intercepted by His Majesty's ship *Laurentic* and found to have on board Germans and Austrians corresponding to those concerning whom information as mentioned above had been received. The *Laurentic* therefore had no hesitation in removing them. The next ostensible port of call of the *China* was Nagasaki, a convenient place at which to transfer to another vessel proceeding to Manila.

It may be added that subsequent information fully confirms that the movement of the body of Germans in question was an integral part of the plot referred to above.

I do not think it will be disputed that persons of this description must be placed within the category of individuals who may, without any infraction of the sovereignty of a neutral state be removed from a neutral vessel on the high seas. The object of their journey was to find another neutral asylum in which they might continue their operations against the interests of this country. The acts which they desired to perform upon the soil of the United States were such as possibly to compromise the neutrality of that country or to constitute an offence against its criminal laws. They were in effect persons whose past ac-

tions and future intentions deprived them of any protection from the neutral flag under which they were sailing.

In Your Excellency's note reference is made to the case of the *Trent*. I venture to hope that the preceding observations show clearly that the present case is of an entirely different nature to that on which the United States Government rely. At the date when the *Trent* case occurred no agreement had been reached as to the claim put forward by certain countries that a belligerent is entitled to remove certain classes of individuals from a neutral ship without bringing the vessel in for adjudication in the prize court; since then, as I have pointed out above, a considerable measure of agreement had been reached on this point. In any case the nature of the persons concerned in the episode of the *Trent* was entirely different from that of the individuals removed from the *China*. Messrs. Slidell and Mason were proceeding to Europe, according to their contention, as the diplomatic representatives of a belligerent; at that time the suggestion that the functions of a diplomatic representative should include the organizing of outrages upon the soil of the neutral country to which he was accredited was unheard of, and the removal of the gentlemen in question could only be justified on the ground that their representative character was sufficient to bring them within the classes of persons whose removal from a neutral vessel was justifiable. The distinction between such persons and German agents whose object is to make use of the shelter of a neutral country in order to foment risings in British territory, to fit out ships for the purpose of preying on British commerce, and to organize outrages in the neutral country itself is obvious.

It is hardly necessary for me to state that it is far from the wish and intention of His Majesty's Government to take any action involving an invasion of the sovereign rights of the United States Government; the above observations will have made it clear that in the view of my Government no such invasion was involved in the action of His Majesty's ship *Laurentic*, and I feel confident that after the foregoing explanations in regard both to the general question involved and to the removal of enemy subjects from the *China* the United States Government will not feel disposed further to contend that this action was not justified.

I have, etc.,

E. GREY.

PART XIV.

ESCAPE OF OFFICERS AND MEN FROM GERMAN SHIPS INTERNED IN THE UNITED STATES.

The Secretary of State to the German Ambassador.

DEPARTMENT OF STATE

No. 1661.]

Washington, November 16, 1915.

EXCELLENCY: With reference to the German vessels and crews now interned in American ports, I have the honor to call your attention to the following facts relating to the escape from time to time of certain paroled officers and men from these vessels.

On October 10, 1915, six officers, Vizesteuermann Heinrich Hoffman, Heinrich Ruedebusch, Wilhelm Forstreuter, Erich Biermann, and Ing. Aspirants Julius Lustfeld and Walter Fisher, of the German cruiser *Kronprinz Wilhelm*, interned at Norfolk, Virginia, received permission to go ashore and to return by eight a. m. October 11th. These officers have not been seen since, and are supposed to have departed on board the yacht *Eclipse*, which was purchased by Vizesteuermann Hoffman shortly before their departure.

On September 29, 1915, Marine Stabsarzt, Dr. Kruger Kroneek, and Lieutenant zur See Koch, of the German cruiser *Prinz Eitel Friedrich*, were given permission to go on a visit to New York City and Niagara Falls and to return to their ship on October 16th. These officers, however, have not returned to their ship and were seen in the Pennsylvania Railroad Station, New York City, on October 17th.

The German cruiser *Prinz Eitel Friedrich* arrived in American jurisdiction on March 10th, 1915, and was interned on April 9th, 1915. On March 10th, the Commanding Officer was directed to allow none of his officers or crew on shore for the present. The Commander acknowledged the receipt of this notice and stated that he would act accordingly. On March 12th the Commanding Officer asked permission for his officers and men to go ashore, if they did not leave Newport News. On March

17, 1915, two days prior to the granting of the Commander's request, the Executive Officer, i. e., the second officer in command, Otto Brauer, left the ship. The Department now has reliable information that Brauer has returned to Germany and is on duty on board the Cruiser *Lutzow* at Danzig.

Doctor Nolte was granted leave of absence from the *Prinz Eitel Friedrich* to go to Newport News and Old Point Comfort, Virginia, and return on May 13th last. Doctor Nolte has not, as yet, returned to his Ship.

On or about June 14, 1915, Herman Deike, Engineer Officer of the *Locksun*, interned at Honolulu, left his ship and is yet absent in violation of his parole.

In view of the apparent disregard of these members of the complements of the interned vessels at Norfolk for their word of honor while on parole, the Navy Department, on October 14, 1915, was under the necessity of ordering that no officers or men be allowed to leave the ships until the absent officers and seamen had returned.

Notwithstanding this order, on October 15, 1915, two members of the crew of the *Kronprinz Wilhelm* attempted to board the Dutch steamship *Maar Tensdyk* at Newport News, in an endeavor to escape. Seaman Sturm was apprehended and his companion, Seaman Kasper, returned to the *Kronprinz Wilhelm* of his own volition. Also, on November 12, 1915, Fireman Thiery was found absent from the *Prinz Eitel Friedrich* at muster, having escaped from his ship.

The incidents related have occurred notwithstanding the fact that at the time of the internment of these vessels each Commanding Officer gave a pledge for "himself, officers, and crews not to commit any unneutral acts and not to leave limits prescribed in paroles." I therefore regret to have to inform Your Excellency that the United States Government regards the actions of these men as contrary to its express instructions and as breaches of the honorable conduct to be expected of officers and men of visiting and interned ships of war of a belligerent nation, and that consequently the Government has been forced to discontinue the custom of paroling the interned officers and men on their honor and otherwise to circumscribe the very liberal privileges which they have heretofore been allowed to enjoy.

It will be recalled that during the Russo-Japanese war, when the Russian Ship *Lena* was interned by United States Authorities on the Pacific coast, three officers of that ship escaped and returned to Russia;

and that upon the Government of the United States calling the matter to the attention of the Russian Government it immediately caused the escaped officers to return to American jurisdiction, where they were interned for the remainder of the war.

This precedent this Government regards as in accord with the best practice of nations and applicable to the cases which I have had the honor to present in this note.

I have no doubt, therefore, that upon Your Excellency's calling these incidents to the attention of the Imperial German Government, that Government will promptly direct that Otto Brauer and any others of the men mentioned who may now be within German jurisdiction, or who may hereafter come within such jurisdiction, be promptly returned to this country for internment with their respective ships.

Accept, etc.,

ROBERT LANSING.

The Secretary of State to Ambassador Gerard.

[Telegram—Paraphrase.]

DEPARTMENT OF STATE,
Washington, November 17, 1915.

Mr. Gerard is informed that the Department of State in a note dated November 16, 1915, called the attention of the German Ambassador at Washington to the escape at intervals of certain paroled German officers and men from ships interned in United States ports. The German Ambassador was also given full facts, giving officers' names and the circumstances under which they escaped. The ambassador's attention was called to the case of the escape during the war between Russia and Japan of three officers of an interned Russian vessel, and that the American Government called the matter to the attention of the Government of Russia, who immediately caused the return of the escaped officers to American jurisdiction. The Ambassador was informed that this precedent is regarded as in accord with the practice of nations in the past and as applicable to the cases which are cited in the Department's note. The Department also stated that it had no doubt that the Ambassador would bring the facts promptly to the German Government's attention and that the German Government would direct the prompt

return to the United States for internment with their respective vessels of the escaped officers and men who may now be or who may hereafter come within German jurisdiction.

The German Ambassador to the Secretary of State.

J. Nr. A 7545.]

GERMAN EMBASSY,

Washington, November 22, 1915.

MY DEAR MR. SECRETARY: The Commanding Officer of H. M. S. *Prinz Eitel Friedrich*, informs me that the officers and crews of the interned German Cruisers at Portsmouth Va., are to be photographed by an order of the Commandant of the Navy Yard at said place apparently as a means of preventing further escapes. Captain Thierichens for obvious reasons before complying has asked for further instructions. I realize that the deplorable escapes of the past, although inspired by patriotic motives, justify strict methods of surveillance, but believing that effective measures already have been taken to insure further escapes I would appreciate it greatly if these officers and crews could be spared the humiliation of having their photographs taken.

I am, etc.,

J. BERNSTORFF.

The Secretary of State to the German Ambassador.

DEPARTMENT OF STATE,

Washington, November 23, 1915.

MY DEAR MR. AMBASSADOR: I am in receipt of your letter of the 22d in regard to the photographing of the crews of the interned German cruisers at Portsmouth, Virginia.

I have had a conversation with the Secretary of the Navy on the subject and we have reached the conclusion that in view of the objections raised by the Commanding Officers of the cruisers the photographing of the crews will not take place at the present time.

I can assure you that it was with no purpose of humiliating the Germans who are interned that this plan was proposed, but you must realize that the violation of paroles by certain of the officers and members

of the crews of these vessels has caused much embarrassment to this Government. I am convinced that you, as well as the Commanding Officers, are desirous that the honor of the German Navy should be preserved, and that the authorities here should apprehend any who violate their word. As the most expedient and practical plan of accomplishing this was to have the portraits of those who might escape published, it was thought well to photograph all the members of the crew as well as the officers. I can not see, in view of what has occurred, why there should be any objection to this being done, but since it is so we will take other means to prevent a repetition of the escapes, although I consider that the redoubling of the vigilance of our Naval authorities is even more humiliation to the interned than to be photographed.

I am, etc.,

ROBERT LANSING.

The German Ambassador to the Secretary of State.

[Translation.]

J. Nr. A 7586.]

GERMAN EMBASSY,

Washington, November 24, 1915.

MR. SECRETARY OF STATE: Pursuant to your kind note No. 1661 of the 16th instant, I first called in the commanding officers of H. M. S. *Kronprinz Wilhelm* and *Prince Eitel Friedrich* for an explanation of the disappearance of some members of their crews. It appears from their report that the following petty officers left their ships in a dingey at about 4 o'clock on Sunday, the 10th of October: Quartermaster Ruedebusch, Hoffmann, Biermann, Forstreuter, Engineer Aspirants Lustfeld and Fischer. The commanding officer of H. M. S. *Kronprinz Wilhelm* reported the occurrence to the Commandant of the Newport News Navy Yard on the 15th ultimo. How the fugitives made good their escape could not be ascertained. Marine Staff surgeon Dr. Kruger-Kroneck and Lieutenant Koch have not returned from the leave that was granted them. The clandestine disappearance of Dr. Kruger-Kroneck is all the more unaccountable as he, being a physician, might have obtained release from internment in the same way as it was accommodately granted to a number of surgeons of the interned ships. Press reports indicate that Lieutenant Koch is now a prisoner in England. The

present whereabouts of all the other absconders is not known to me or their superior officers.

Captain Lieutenant Bauer was still on board *H. M. S. Prinz Eitel Friedrich* on March 16, but was no longer there on the 17th. Until then the commanding officer had no other directions than that of letting no one go on shore and had accordingly notified his officers and men that there was no shore leave to be had for the time being. Not until the 19th of March did he receive permission for his crew to get leave to go to certain defined places on land: "Officers on parole and men under guard of American soldiers." Captain Lieutenant Koch therefore could not have broken his parole, but merely disobeyed orders. There can be no question, therefore, of his being sent back to the United States on the above-stated ground.

As for the seamen, Sturm and Kasper, they left the *Kronprinz Wilhelm* as early as October 14; their attempt to escape took place before the time when the Navy Department's order that no one should leave the ship became known to the ship as October 15, it being dated October 14.

I believe the foregoing particulars will prove of some help in clearing up the matter, which I have reported to my Government.

Accept, etc.,

J. BERNSTORFF.

Ambassador W. H. Page to the Secretary of State.

[No. 2708.]

AMERICAN EMBASSY,
London, December 16, 1915.

SIR: I have the honor to acquaint you that on December 3rd I received from H. M. Foreign Office a note, a copy of which I attach herewith,¹ requesting that enquiries be made of the German Government concerning the identity of one Lieutenant zur See Henry Koch, who recently escaped from internment at Norfolk. This enquiry was accordingly transmitted to the Embassy at Berlin on December 7th, with the request that the desired particulars might be obtained.

On December 6th Lieutenant Koch, who is now detained at Edinburgh, addressed a communication to the Consul there who immediately transmitted it to this Embassy. Copies of Koch's letter and

¹ Not printed.

the Consul's letter of transmittal were presented to H. M. Foreign Office on December 13th, and I have the honor to transmit herewith copies of these two communications.

No reply has been made by this Embassy to the suggestion made in Lieutenant Koch's letter to the Consul at Edinburgh.

I have, etc.,

WALTER HINES PAGE.

[Inclosure 1.]

Consul Fleming to Ambassador W. H. Page.

AMERICAN CONSULATE,
Edinburgh, December 8, 1915.

SIR: I have the honor to report that Lieut. Henry Koch, German naval officer, is a prisoner of war in Edinburgh Castle. He was taken off the Danish S. S. "*Tyskland*," bound from New York to Copenhagen, at Lerwick, Shetland Islands, on the 14th November, 1915. Lieut. Koch was an officer on the interned German auxiliary cruiser "*Prinz Eitel Friedrich*," lying at Portsmouth, Virginia, and fled in the early part of October, with the intention of reaching Germany *via* Denmark. Lieut. Koch shipped on the S. S. "*Tyskland*" as a member of the crew.

A letter addressed to this Consulate by Lieut. Koch is herewith enclosed.

I have, etc.,

RUFUS FLEMING.

[Inclosure 2.]

Lieutenant Koch to Consul Fleming.

EDINBURGH, *December 6, 1915.*

DEAR SIR: I was officer on board of the interned German auxiliary cruiser "*Prinz Eitel Friedrich*" lying in Portsmouth, Va., have flought out of the American internment and have been taken from a neutral ship in England. If it is possible that the United States Government grants to me indemnity because of my flight, I beg the United States Embassy, at the same time representing my own Government in this country, to ask the British Government for its agreement that I dare return on my own costs to United States of America and into the American internment.

I think to be condemned to inactivity in the same degree in America as in England, especially after an attempt of flight. Further I would not cause any expenses either to the British or to the American Government.

Yours truly,

KOCH.

The Secretary of State to the British Ambassador.

DEPARTMENT OF STATE,
Washington, December 22, 1915.

MY DEAR MR. AMBASSADOR: I beg to acknowledge the receipt of your personal note of December 18, 1915, stating that you are informed by your Government that there is now in detention as a prisoner of war in Great Britain an individual who gives his name as Lieutenant zur See Henry Koch, and states that he has escaped from internment at Norfolk, Virginia. You add that the British authorities are anxious, if possible, to obtain confirmation of this prisoner's statements as to his identity and rank.

In reply you are advised that Koch was interned with the *Prinz Eitel Friedrich*, that on September 29, 1915, he and Dr. Kruger Kroneck were given permission to visit New York, to return to their ship on October 16, and that they never returned to the cruiser. Koch is described as being thirty years of age and five feet eight inches tall, having blue eyes, good teeth, no beard or moustache, speaking fair English, and weighing about one hundred and sixty pounds. At the time of the internment of the vessel, the commanding officer gave a pledge for "himself, officers, and crew not to commit unneutral acts and not to leave limits prescribed in paroles."

I am, etc.,

ROBERT LANSING.

The Secretary of State to Ambassador Gerard.

[Telegram—Paraphrase.]

DEPARTMENT OF STATE,
Washington, December 22, 1915.

Mr. Gerard is directed to inquire at the German Foreign Office as to whether the matter of the escape of interned German officers and men

has been called to the attention of the Foreign Office by the German Ambassador in Washington, and if so to urge that the representations of the Department of State to the German Ambassador be promptly replied to by the German Government. A report by cable is requested.

The Secretary of State to Ambassador W. H. Page.

No. 3046.]

DEPARTMENT OF STATE,
Washington, January 7, 1916.

SIR: The Department has received your despatch No. 2708, of December 16, 1915, in which you enclose copy of a Foreign Office note requesting that enquiries be made of the German Government concerning the identity of one Lieutenant zur See Henry Koch, who recently escaped from internment at Norfolk.

In reply, you are informed that the Department has upon request given the description of Lieutenant Koch, escaped intern, to the British Ambassador here for purposes of identification. The Consul at Edinburgh should reply to the Lieutenant's letter by stating that, in view of the breach of parole involved in his escape from internment, no representations will be made to the British Government looking to his return to the United States.

I am, etc.,

ROBERT LANSING.

Ambassador Gerard to the Secretary of State.

No. 2496.]

AMERICAN EMBASSY,
Berlin, February 21, 1916.

SIR: With reference to my telegram No. 3508 of February 19, 1916, I have the honor to transmit herewith to the Department a copy and translation of the Foreign Office's Note, dated February 16, 1916, regarding the escape of officers and men from the German auxiliary cruisers *Kronprinz Wilhelm* and *Prinz Eitel Friedrich*, at present interned in American ports.

I have, etc.,

For the Ambassador:
J. C. GREW.

[Inclosure—Translation.]

No. III a 2610.

FOREIGN OFFICE,

31366.

Berlin, February 16, 1916.

The undersigned has the honor to inform His Excellency, the American Ambassador, Mr. James W. Gerard, in answer to the communication of December 24, 1915, regarding the escape of officers and men from the German auxiliary cruisers *Kronprinz Wilhelm* and *Prinz Eitel Friedrich*, at present interned in American ports, that the matter has been brought to the attention of the German Naval Administration. According to the investigations made by the latter, the commanders of the two auxiliary cruisers, unfortunately, did not sufficiently instruct their officers and crews regarding the significance of the "assurance" ("Versicherung") given by them. Moreover, the expression "pledge" chosen by Rear Admiral Beatty in his letter to the commanders does not conform absolutely to the idea of the "word of honor" (Ehrenwort). The persons who escaped, therefore, were obviously convinced that they would not, through their act, render themselves guilty of a breach of their word of honor.

The German Government acknowledges the fact, however, that the members of the crew—and only they—who escaped after the "assurance" ("Versicherung") of the commanders had been given on April 13 and May 5, 1915, respectively, were in the wrong towards the American Government, and that they are to be sent back to their vessels. Of the persons mentioned in the note of the American Government to the German Ambassador at Washington of November 16, 1915, No. 1661, the following are therefore concerned: Marine-Stabsarzt Krüger-Kroneck, Leutnant zur See Koch, Dr. Nolte, Vize-Steuermann der Reserve Hoffmann, Vize-Steuermann der Reserve Ruedebusch, Vize-Steuermann der Reserve Forstreuter, Vize-Steuermann der Reserve Biermann, Ingenieur-Aspirant der Reserve Lustfeld, Ingenieur-Aspirant der Reserve Fischer, Heizer Thierry.

Of these persons, only Stabsarzt Krüger-Kroneck returned so far to Germany. He will be instructed to return to his vessel as soon as the American Government has obtained safe-conduct for him from the hostile Governments.

The German Government states expressly that by the return on board his ship of Stabsarzt Krüger-Kroneck the question is not touched whether, after his return, his release later on may not have to be granted

in accordance with the Hague Convention regarding the application of the rules of the Geneva Convention to naval warfare.

In requesting to bring the foregoing to the attention of the American Government, the undersigned avails himself, etc.,

ZIMMERMANN.

The Secretary of State to Ambassador Gerard.

[Telegram—Paraphrase.]

DEPARTMENT OF STATE,
Washington, March 9, 1916.

Mr. Gerard is informed that the reply of the German Foreign Office regarding the escape of officers and men of the German Cruisers at present interned in ports of the United States was referred to the Navy Department. In reply the position is taken by the Navy Department that the *Kronprinz Wilhelm* and the *Prinz Eitel Friedrich* sought refuge in an American port and agreed to be interned. Therefore, the obligation of remaining with their vessels rested wholly with the officers of those vessels.

That these officers are not cognizant of the principles of international law can not be assumed. Promises were given in writing by the captains of the two vessels for themselves, the officers, and the crews of the vessels that they would in no way violate American neutrality during their internment. It seems to be indicated by the answer of the German naval administration that it does not appreciate fully the seriousness of the obligation assumed thus by their naval representatives on the two vessels in question to remain within the assigned limits with the minimum of trouble to the Government of the country in which they are interned. They were considered as guests of the American Government and not as prisoners of war, and as such guests permission was given them to leave the navy yard and to visit on leave any part of the United States. Lieutenant zur See Koch and Doctor Kruger Kroneck, after having availed themselves of the permission mentioned to leave the limits of their internment, failed to return as they were unquestionably bound to do. Furthermore, money was supplied by Doctor Kroneck with which the yacht *Eclipse* was purchased by six officers of the *Kronprinz Wilhelm* who escaped from the jurisdiction of the Government

of the United States. Should the return of Doctor Kroneck be effected the Government of the United States should not consent to his release under the application to naval officers of the Geneva Convention rules, as on account of considerable sickness on the interned ships his presence on board is necessary. No mention is made in the reply of the German Foreign Office of Otto Brauer, the Executive Officer of the ship *Prinz Eitel Friedrich*, who left that ship after the Captain of the vessel had been requested by the Government of the United States not to give permission to his officers or men to go on shore, which request was acknowledged by the Captain who stated that he would act in accordance therewith. It can not be conceived by the Navy Department that the Executive Officer, the next in command, was ignorant of this request of the Government of the United States. The departure of Otto Brauer, the executive officer, was taken against this Government's express direction, and the Navy Department is of the opinion that he should be returned to the jurisdiction of the Government of the United States. Also in the case of the engineer officer, Herman Dieke, of the *Locksun*, interned at Honolulu, who, while on parole, absented himself, no reply is made. The full reply of the Navy Department is being sent by mail to Mr. Gerard, who is directed to present the views of the Government of the United States, and to say that the Department would be glad to have an early reply.

PART XV.

STATUS OF AMERICAN CONSULAR OFFICERS IN BELLIG-
ENT TERRITORY OCCUPIED BY ENEMY TROOPS.

Ambassador Gerard to the Secretary of State.

No. 308.]

AMERICAN EMBASSY,
Berlin, December 4, 1914.

SIR: I have the honor to transmit to you herewith a copy in translation of a Note Verbale, received from the Imperial German Foreign Office, stating the position of the German Government, respecting the recognition of Consular Officers in territory under occupation by the German Army.

I have, etc.

JAMES W. GERARD.

[Inclosure—Translation.]

Nr. I c 16180
96680

FOREIGN OFFICE,
Berlin, November 30, 1914.

NOTE VERBALE.

Now that the German Army has occupied various portions of enemy countries, the German Government considers the Exequaturs of the Consuls, formerly permitted to act in such districts, to have expired.

The Imperial Government would, however, be disposed to consider favorably any wishes of allied and neutral countries, respecting the establishment of consular offices in the districts in question, excepting, of course, those districts where military operations are still in course.

In Belgium consular activities in the provinces of East and West Flanders would accordingly not be permitted at present. With regard to the other parts of Belgium, consular officers would be permitted to act for the present in Brussels, Antwerp, and Liege, but not at other points.

The Imperial Government would not consider the issuance of formal Exequatur advisable; to consular officers, whose names are communicated to the Foreign Office, would simply be granted temporary recognition to enable them to act in their official capacity, under reserve of the usual investigations respecting their records.

In view of the peculiar circumstances contingent on military occupation, the Imperial Government would be grateful if only such persons should be nominated as are assuredly friendly to Germany or have at least neutral convictions.

In bringing the above to the attention of the Embassy, the Foreign Office has the honor respectfully to request that the American Government may be notified in the above sense. As the Embassy is aware, the German Government has already recognized Consul-General Diederich at Antwerp, assuming this to be the wish of the American Government.

The Belgian Minister to the Secretary of State.

[Translation.]

BELGIAN LEGATION,
Washington, December 28, 1914.

MR. SECRETARY OF STATE: I have just received the following cablegram from my Government:

The German Government has just notified the neutral powers of its intention to cancel the exequaturs granted by the Belgian Government to foreign consuls and to create but those consular posts at Brussels, Liege, and Antwerp, temporary recognition only being granted to those officers.

The Belgian Government has entered protest at Berlin, under Article 42 of the 4th Convention of The Hague, military occupation only confers upon the occupant State over the territory of the occupied State *de facto* possession, the right to cancel all exequaturs can not be derived from that title.

I have been officially instructed to notify Your Excellency of the Belgian Government's protest.

Be pleased to accept, etc.,

E. HAVENITH.

Ambassador Gerard to the Secretary of State.

No. 425.]

AMERICAN EMBASSY,
Berlin, January 11, 1915.

SIR: With reference to my despatch No. 308 of December 4, 1914, I have the honor to transmit to you herewith a copy and translation of a Note Verbale, received from the Imperial German Foreign Office, dated January 3, 1915, and of a Note Verbale¹ addressed to the Imperial Foreign Office by the Royal Spanish Embassy at Berlin, relative to the protest of the Belgian Government against the position taken by the German Government, respecting the recognition of consular officers in territory under occupation by the German Army.

I have, etc.,

JAMES W. GERARD.

[Inclosure—Translation.]

II
2312FOREIGN OFFICE,
Berlin, January 3, 1915.

NOTE VERBALE.

In supplement to its Note Verbale of November 30, 1914, No. Ic 16180, the Foreign Office has the honor to enclose herewith to the Embassy of the United States of America a copy of a Note Verbale, received from the Royal Spanish Embassy, which transmitted to the Imperial German Government a protest of the Belgian Government relative to the position of neutral consuls in Belgium:

The Imperial Government is obliged to consider that the protest of the Belgian Government is not well founded.

Article 42 of the IVth Hague Convention in particular is not capable of supporting the view of the Belgian Government. This article makes it obligatory on the occupant State only to maintain as far as possible public order in the occupied districts, but not to permit the officials of the enemy State to remain in office. Such officials cannot be tolerated, except as far as military considerations admit, and if the officials themselves are ready to comply with the regulations of the occupant State. If these principles are applied by analogy to the Consuls of neutral

¹ Not printed; substance stated in preceding document.

States, it results that they also cannot perform their public duties, except by consent of the occupant Power and to the extent allowed by it, inasmuch as the exequatur of the enemy is not binding on the occupant Power.

The Note Verbale of the Imperial Foreign Office of November 30, last, does not affect the rights of the Belgian Government in any way, but deals exclusively with the interests of the Imperial Government, which conceives it to be its right and its unalterable duty to regulate for the period of occupation the consular protection in the territory occupied by its Army. Moreover, this reregulation is primarily necessary in the interests of neutral nationals themselves. More than 300 consular representatives of the allied and neutral States were hitherto officially recognized in Belgium. By far the majority of them were honorary consuls of Belgian nationality, and of them a large number have left Belgium. It is beyond doubt that the Imperial Government, in the very interest of neutral nationals, can not hesitate to see to it that their consular protection is established securely and effectively, to which end it has, as a first step, requested the allied and neutral Governments, under date of November 30, 1914, to express their wishes.

The Foreign Office begs to request the good offices of the Embassy of the United States of America to the end that the above may be brought to the attention of its Government.

The Secretary of State to Ambassador Gerard.

[Telegram.]

DEPARTMENT OF STATE,
Washington, January 21, 1915.

Note verbale enclosed in your dispatch 308. You are instructed to present the following to the German Government:

The Government of the United States has received and given consideration to the Note Verbale of the Imperial Government dated November 30, 1914, in which it is stated that the German Army now having occupied various portions of enemy countries, the German Government

considers the Exequaturs of the Consuls, formerly permitted to act in such districts, to have expired. That the Imperial Government would, however, be disposed to consider favorably any wishes of allied and neutral countries respecting the establishment of consular offices in the districts in question, excepting, of course, those districts where military operations are still in course; and that the Imperial Government would not consider the issuance of formal Exequaturs advisable; to consular officers, whose names are communicated to the Foreign Office, would simply be granted temporary recognition to enable them to act in their official capacity, under reserve of the usual investigations respecting their records.

The Government of the United States, in view of the fact that consular offices are commercial and not political representatives of a government and that permission for them to act within defined districts is dependent upon the authority which is in actual control of such districts irrespective of the question of legal right, and further, in view of the fact that the consular districts, to which reference is made in the Note Verbale of the Imperial Government, are within the territory now under German military occupation, is not inclined at this time to question the right of the Imperial Government to suspend the exequaturs of the consular officers of the United States within the districts which are occupied by the military forces of the German Empire and subject to its military jurisdiction.

The Government of the United States notes that all the consular districts in Belgian territory occupied by the German military forces, excepting Brussels, Antwerp, and Liège, are considered by the Imperial Government to be within the zone of military operations and that within such districts, except those named, the Imperial Government will not permit consular officers to exercise their functions.

The Government of the United States in the circumstances assumes that the Imperial Government will raise no objection to the consular officers of the United States now stationed at Brussels, Antwerp, Liège, and other places similarly situated acting in their official capacity, and that, if the *de facto* authorities at those cities object on personal grounds to any of such officers continuing, the Government of the United States will be forthwith notified of such objection.

BRYAN.

The Secretary of State to the Belgian Minister.

DEPARTMENT OF STATE,
Washington, January 25, 1915.

SIR: I have received your note, No. 3465, of December 28, 1914, in which you refer to the notification of the neutral powers by the German Government of its intention to cancel the exequaturs granted by your Government to foreign consuls and to create but three consular posts, namely, Brussels, Liège, and Antwerp, only granting temporary recognition to the consular officers stationed at those places.

You state that your Government has entered a protest at Berlin under Article 42 of the Fourth Convention of The Hague, to the effect that military occupation only confers upon the occupant *de facto* possession, which does not carry with it the right to cancel exequaturs.

Accept, etc.,

W. J. BRYAN.

The Belgian Minister to the Secretary of State.

[Translation—Extracts.]

No. 898.]

BELGIAN LEGATION,
Washington, February 13, 1915.

MR. SECRETARY OF STATE: I am instructed by the King's Government and have the honor to forward herewith to your Excellency a copy of the German Government's reply to the Belgian Government's protest, together with a copy of another note from the Belgian Government which the Spanish Government kindly undertook to deliver at Berlin.

I embrace this opportunity, etc.,

E. HAVENITH.

[Inclosure 1—Translation.]

The Foreign Office to the Royal Embassy of Spain.

SPANISH EMBASSY,
Berlin, January 3, 1915.

The Department of Foreign Affairs has the honor to answer the note verbale of the Royal Embassy of Spain of December 31 last as follows:

The Imperial Government is of opinion that the Belgian Govern-

ment's protest in the matter of the exequaturs of consuls in Belgium is groundless.

Article 42 of the IV Convention of The Hague, in particular does not support the views of the Belgian Government. Under that article the occupant Power is bound to maintain, as far as possible, public order in the occupied area; the article in no wise binds it to continue all officials in office. This, on the contrary, could only be done within the measure allowed by the military considerations of occupation and not on the mere condition that those officials will be ready to yield to the authority of the occupant Government. Those principles apply to neutral consuls, and those officers can only discharge their public duties if and as far as the occupant Power agrees, as the enemy's exequatur is not binding on that Power.

The circular note of the Imperial Government concerning consuls does not in any way touch upon the rights of the Belgian Government; it merely deals with the rights of Imperial Government which claims it as its inborn right and undisputable duty to regulate the consular protection of neutral subjects for the term of occupation. This new rule furthermore and foremost is required for the good of the neutral subjects themselves. Inasmuch as 300 representatives at least of the allied or neutral states were recognized in Belgium, most of them of Belgian nationality, many of them having left the country, it is plain that in the interest of the neutral subjects themselves it would not be well for the Imperial Government to delay giving its attention to assured and effective regulations for their protection.

[Inclosure 2—Translation.]

NOTE VERBALE.

Germany claimed, in her communication of December 5, that the occupant of an invaded country had the right to regard as "annulled" all exequaturs previously issued to Consuls in office by the lawful power of that country.

The claim is untenable.

By reason of the character of the occupant's power which flows from mere possession and is in no wise final, Article 43 of the IVth Convention of The Hague sanctions, in principle, the continuance of civil and administrative laws and, consequently, of existing conditions.

It is idle for Germany to invoke, in her note of January 3, military

and administrative considerations. These both may justify the withdrawal of the exequatur of a consul who should indulge in hostile acts or behave in a manner inconsistent with the duties of his office. But they can not warrant either a general right of cancellation as claimed by Germany nor her assuming to upset the whole Consular organization to reduce the number of consuls to three for each nation and to bar from consulates, on the sole ground that they are Belgians, men who have committed no act antagonistic to military interests and honestly acknowledged the occupant's rights as defined by The Hague Convention.

The German proposition, if accepted, would carry the consequence of throwing into a state of disastrous uncertainty the Consulates established in parts that are occupied one day and retaken the next.

Ambassador Gerard to the Secretary of State.

No. 664.]

AMERICAN EMBASSY,
Berlin, March 12, 1915.

SIR: With reference to the Department's telegram No. 1044, dated January 21, 4 p. m., the substance of which was duly communicated to the Imperial Foreign Office, I have the honor to transmit to you herewith a copy in translation of the reply of the Foreign Office, dated March 9, 1915, on the subject of the consular representation of the United States in Belgium.

I have, etc.,

JAMES W. GERARD.

[Inclosure—Translation.]

No. I c. 2709/303000

FOREIGN OFFICE,
Berlin, March 9, 1915.

NOTE VERBALE.

The Foreign Office has the honor to convey its best thanks to the Embassy of the United States of America for the statement communicated with the esteemed Note Verbale of January 25, 1915, F. O. No. 2002.

The Foreign Office gladly takes the opportunity expressly to confirm that no objections are raised to the American consular representatives now stationed at Antwerp and Liège. These two officials have succeeded

under the trying conditions of the present time in establishing the most agreeable official relations with the authorities of occupation.

Mr. Watts, the Consul General at Brussels, is on leave of absence, and it would appear that he is not to return to his post. Should the Government of the United States propose to fill this post again, this intention would agree with the wishes of the Imperial Government and the military authorities in Belgium.

Although Ghent is still within the zone of military operations, and official consular activity there would therefore appear not to be desirable as yet, the Foreign Office would like to state at this time that no objections on personal grounds will be raised against Mr. Jansen, the Consul of the United States at that place.

Ambassador Penfield to the Secretary of State.

[Telegram—Paraphrase.]

AMERICAN EMBASSY,

Vienna, November 13, 1915.

Ambassador Penfield reports that permission has been requested by Vice Consul Young, now at Cacak, Serbia, to return to Belgrade while it is within the military jurisdiction of Austria-Hungary, and a prompt ruling by the Department of State as to whether Vice Consul Young is subordinate to the Embassy at Vienna or the Legation at Bucharest is requested by Ambassador Penfield, who is convinced that intercommunication between an official in inner war zone and a neutral capital would not be permitted by military authorities.

Ambassador Penfield to the Secretary of State.

[Telegram—Extracts.]

AMERICAN EMBASSY,

Vienna, November 14, 1915.

"This Consulate leaves Cacak Friday for Belgrade. Please wire State Department to instruct me whether I shall join Serbian Government via Italy or remain in Belgrade. YOUNG."

PENFIELD.

The Secretary of State to Ambassador Penfield.

[Telegram.]

DEPARTMENT OF STATE,
Washington, November 17, 1915.

Under existing conditions Young should remain in Belgrade under your supervision. Give him appropriate instructions.

LANSING.

Ambassador Penfield to the Secretary of State.

[Telegram—Paraphrase.]

AMERICAN EMBASSY,
Vienna, November 20, 1915.

Ambassador Penfield reports an informal discussion, of the status of Vice Consul Young at Belgrade, with members of the Ministry of Foreign Affairs of Austria-Hungary who desire to ascertain the preferences of the Department of State. Attention was called to the fact that the functions of Vice Consul Young lapsed *ipso facto* in his inclusion within Austro-Hungarian lines. Some friction with the military authorities was feared should he remain at Belgrade, although no intimation in that sense has been received by the Ministry. However, the Ministry wishes to accede, if possible, to the desires of the Department of State. Precedents of Consuls in Belgium and at Warsaw were cited. It was stated that in view of the care of foreign interests it would be useful to have an American consular officer at Belgrade. Ambassador Penfield promised to ascertain the views of the Department of State, and he suggests that Vice Consul Young might be attached to the American Consulate General at Budapest in order to regulate his status.

The Secretary of State to Ambassador Penfield,

[Telegram—Paraphrase.]

DEPARTMENT OF STATE,
Washington, November 23, 1915.

Mr. Lansing states that while recognizing that, as consuls are not political but commercial representatives, permission for the exercise

of functions by them within defined districts depends upon the authority actually controlling those districts, the Department of State assumed that it would be entirely agreeable to the Government of Austria-Hungary, the military forces of which are in control of Belgrade, to have American Vice Consul Young, who has charge of the Consulate of the United States, remain in Belgrade in charge of American as well as in charge of certain foreign interests in that part of Serbia under the military control of Austria-Hungary, especially since such a course would harmonize with the usual procedure and with the course which was followed concerning consuls in Belgium and in the City of Warsaw. Ambassador Penfield is informed that he may again emphasize the foregoing and indicate that inconvenience to American interests and also to foreign interests in care of the American Consulate would likely result in the withdrawal of the Consulate from Belgrade, and he is directed to express the hope of the United States Government that the American Consulate may be permitted to remain at Belgrade. It is not apparent that objection to Vice Consul Young on personal grounds exists.

It is the belief of the Department of State that the peculiar status of Belgrade makes the placing of the Consulate in the jurisdiction of the Consulate General at Budapest inexpedient and that unless positive reasons for a different course exist it should remain detached under the supervision of the Embassy.

Ambassador Penfield to the Secretary of State.

[Telegram—Paraphrase—Extract.]

AMERICAN EMBASSY,
Vienna, November 23, 1915.

Following telegram received through Ministry Foreign Affairs for transmission to Department:

Arrived Belgrade with archives and personnel. Request instructions. Military authorities declare impossible remain, Belgrade in war zone. Am leaving for Vienna shortly to confer with Ambassador Penfield.

YOUNG.
PENFIELD.

Ambassador Penfield to the Secretary of State.

[Telegram—Paraphrase.]

AMERICAN EMBASSY,
Vienna, December 7, 1915.

Ambassador Penfield reports the conditions under which the return of Vice Consul Young to Belgrade is consented to by the Government of Austria-Hungary as follows:

First. The employment of only Americans or Austro-Hungarians in the Consulate.

Second. Reports or observations of a military character not to be made.

Third. Subjection of both official and private correspondence to censorship.

Fourth. Journeys in occupied territory not to be undertaken and notification to military authorities in advance of journeys into Austria-Hungary.

Furthermore it is stated verbally by the Ministry of Foreign Affairs that the Vice Consul can not exercise good offices on behalf of Serbians, as they are under military jurisdiction.

It is stated by Vice Consul Young that under present conditions practically no American interests are to be cared for at Belgrade and that Italian, French, and British interests are negligible.

Should the Department, in view of foregoing, consider as useless the definite return of Vice Consul Young to Belgrade, Ambassador Penfield suggests that Mr. Young return to Belgrade to arrange matters and seal the archives, and that the office be left in charge of the messenger, who is an Austro-Hungarian subject exempt from military duty. In the event of Mr. Young being granted indefinite leave of absence it is urged that he be detailed to the Embassy to assist in its work.

The Secretary of State to Ambassador Penfield.

[Telegram—Paraphrase.]

DEPARTMENT OF STATE,
Washington, December 23, 1915.

Secretary Lansing states that as it is apparent there are now practically no American or foreign interests to be taken care of in Belgrade, Vice

Consul Young should make arrangements for the sealing of the archives and for the safeguarding of the Consulate, after which he should go to the American Consulate General at Vienna, to which he has been assigned temporarily subject to the requirements of the Embassy. The seals of the Belgrade Consulate should be deposited in the American Consulate General at Vienna.

Vice Consul Young to the Secretary of State.

No. 74.]

AMERICAN CONSULATE,¹
Belgrade, January 17, 1916.

SIR: I have the honor to refer to the Department's telegraphic instructions No. 1052 of December 23, 1915, to the American Embassy at Vienna instructing me to return to Belgrade and also instructing as to the temporary closing of the American Consulate at Belgrade.

I also have the honor to report that in pursuance to the Department's instructions I left Vienna on January 4th, the date of the receipt of official permission from the Austro-Hungarian Army Headquarters to return to the war zone, and arrived in Belgrade January 5th, p. m., I having been granted permission to remain in Belgrade five days, such permission having been granted in compliance with the request of the American Embassy, Vienna, "for urgent personal affairs."

Instructions were given the office force of the Consulate that the services of the clerks would not be required by the Consulate after all current business had been finished and brought to date; that one messenger, Tomas Jakobac, Austro-Hungarian subject, was to remain on the premises of the Consulate to look after the office and such furniture and archives as would remain; and that the Consulate was to be temporarily closed.

The cipher code was brought by me to Vienna, and is temporarily deposited against receipt at the American Embassy, Vienna.

The two official Consular seals, the wafer press seal, and the wax seal were also brought by me to Vienna, and have both been deposited at the American Consulate General against proper receipt.

Such archives as could be carried were brought by me with the complete file of correspondence for the year 1915, and such volumes of in-

¹ Written from the American Embassy, Vienna.

structions from the Department as could be carried, and other official records, were also brought to Vienna, and are now in my use here at the American Embassy, in connection with the winding up of current business of the Consulate.

A complete inventory of the Consulate and the exact disposition of each and every article of Government property remaining in the office of the Consulate and also that which has been brought to Vienna will be forwarded by me at the first opportunity.

Those records and archives that remain in the Consulate, with few exceptions, were carefully packed away and locked up and sealed with the official seal of this Consulate and an inventory taken of them. This will be forwarded to the Department.

I left Belgrade January 9th, p. m., 1916, and arrived in Vienna January 10th, p. m., 1916.

I have, etc.,

JAMES B. YOUNG.

Ambassador Gerard to the Secretary of State.

[Telegram—Paraphrase.]

AMERICAN EMBASSY,
Berlin, June 14, 1916.

Mr. Gerard reports that the German Foreign Office states that the Government has in contemplation extending the same recognition to Consul at Warsaw as has been accorded to consuls at Antwerp, Liège, and Brussels. Mr. Gerard states that Foreign Office desires to be informed whether recognition in this form will be regarded as acceptable by the United States Government.

The Acting Secretary of State to Ambassador Gerard.

[Telegram—Paraphrase.]

DEPARTMENT OF STATE,
Washington, July 12, 1916.

Mr. Gerard is directed to inform the German Foreign Office that the

German Government's proposal to grant permission to the American Consul at Warsaw, in accordance with the treatment of consuls in Belgium, to exercise his consular functions in the portion of his consular district under the military occupation of Germany, is acceptable to the United States Government.

PART XVI

DUAL NATIONALITY ¹—MILITARY SERVICE CASE OF
FRANK GHILONI.

The Secretary of State to Ambassador T. N. Page.

[Telegram.]

DEPARTMENT OF STATE,
Washington, January 13, 1915.

Frank L. Ghiloni, born Marlborough, Massachusetts, August 4, 1885, detained at Barga. Father naturalized February, 1886, proprietor of restaurant and store, Marlborough. Son clerk in store. Ask release, permission to return. Report soon as possible.

BRYAN.

The Secretary of State to Ambassador T. N. Page.

[Telegram.]

DEPARTMENT OF STATE,
Washington, January 21, 1915.

Department's January 13, Ghiloni. Report promptly as possible.

BRYAN.

Ambassador T. N. Page to the Secretary of State.

[Telegram.]

AMERICAN EMBASSY,
Rome, January 22, 1915.

Your one forty-five, twenty-first.

Have received as yet no reply to my note fourteenth regarding Ghiloni, but am renewing request to-day.

PAGE.

¹ See Special Supplement, July, 1915, pp. 369-375.

The Secretary of State to Consul Grace.¹

[Telegram.]

DEPARTMENT OF STATE,
Washington, February 20, 1915.

Advise Frank Ghiloni, at Barga, Ambassador endeavoring obtain permission his release.

BRYAN.

The Secretary of State to Ambassador T. N. Page.

[Telegram.]

DEPARTMENT OF STATE,
Washington, March 25, 1915.

Your 169, January twenty-second.
What is status Ghiloni case?

BRYAN.

Ambassador T. N. Page to the Secretary of State.

[Telegram.]

AMERICAN EMBASSY,
Rome, March 26, 1915.

Your 183, twenty-fifth, Ghiloni case.
No definite reply received to Embassy's several requests. Am again urging action.

PAGE.

The Secretary of State to Ambassador T. N. Page.

[Telegram.]

DEPARTMENT OF STATE,
Washington, May 6, 1915.

Department's 183, March twenty-fifth. Report status Ghiloni case.

BRYAN.

¹ American consul at Leghorn.

Ambassador T. N. Page to the Secretary of State.

[Telegram.]

AMERICAN EMBASSY,
Rome, May 7, 1915.

Your 212, 6th.

Ghiloni case still undecided. No reply as yet to Embassy note April 23rd giving further facts.

PAGE.

Ambassador T. N. Page to the Secretary of State.

[Telegram.]

AMERICAN EMBASSY,
Rome, May 18, 1915.

Foreign Office states Ministry of War have decided impossible to exempt Frank Ghiloni from liability to military service.

PAGE.

The Secretary of State to Ambassador T. N. Page.

[Telegram.]

DEPARTMENT OF STATE,
Washington, June 7, 1915.

Your 281, May eighteenth. From affidavit of brother of Frank L. Ghiloni it appears that latter resided in Italy about ten years during childhood and returned this country at age of twelve and resided here continuously until last June, when he went to Italy for his health on advice physician. Confirmed by physician's affidavit. His father naturalized when Ghiloni was less than one year old.

Call Italian Government's attention fact Ghiloni was born a citizen United States under its law. As he was domiciled in this country when he attained majority nearly nine years ago, has evidently made practical election American nationality and visited Italy last June for a temporary purpose, it would seem just and reasonable for the Italian Government to permit him to leave Italy and return United States. It is

hoped that Italian Government, upon a full presentation of these facts, will grant this.

BRYAN.

Ambassador T. N. Page to the Secretary of State.

[Telegram.]

AMERICAN EMBASSY,
Rome, June 11, 1915.

Department's 252, seventh, and 256, tenth.

Ghiloni case again brought attention Foreign Office eighth instant with request for early and favorable action, but no reply as yet

PAGE.

The Secretary of State to Ambassador T. N. Page.

[Telegram.]

DEPARTMENT OF STATE,
Washington, July 20, 1915.

Your 322, June eleventh. Ask early decision Ghiloni case. Say this Government hopes Italian Government will give due consideration to fact that Ghiloni was born a citizen of the United States under the law of this country, has been domiciled in the United States since attaining his majority, about nine years ago, and has thus evidently made a practical election of American nationality, and that it will release him and allow him to return to his home in the United States. It is considered by this Government that the principle of election of nationality should be recognized in cases of persons born with dual nationality, whether or not the municipal laws of the countries concerned prescribe definite modes of election. This Government has no desire to intervene in cases of persons who were born in the United States of Italian parents but were domiciled in Italy upon attaining majority, are still domiciled there, and have evidently elected Italian nationality. It is hoped that Italian Government will be willing to make a reasonable discrimination in these cases. Please endeavor discuss this matter personally with Foreign Minister and report result.

LANSING.

Ambassador T. N. Page to the Secretary of State.

[Telegram.]

AMERICAN EMBASSY,
Rome, August 13, 1915.

Informed following American citizens held for military service ordered released as born after father's naturalization: Gallo Gaspero, Francesco Leone. Alberto Tumillo has already left Italy. Following three now under arms being looked into and a decision will shortly follow: Leroy Barsotti, Ugo da Prato,¹ Francisco Ghiloni.

PAGE.

Ambassador T. N. Page to the Secretary of State.

[Telegram.]

AMERICAN EMBASSY,
Rome, August 18, 1915.

Regarding my 368, thirteenth, Foreign Office officially confirms release Gallo Gasparo, Leone Francesco, departure Alberto Tumolillo and states following five cases, Barsotti Leroy, Da Prato Mario Ugo, Ghiloni Francesco, Mazza Carmine, and Berardini Gostino, being carefully investigated and promises early definite reply, which Embassy unofficially understands may be favorable.

PAGE.

Ambassador T. N. Page to the Secretary of State.

No. 362.]

AMERICAN EMBASSY,
Rome, August 27, 1915.

SIR: Referring to Department's No. 194 of August 4th,² the Department is already in receipt of information that Ugo Da Prato has been released from military service by the Royal Italian Government, together with other Italian citizens, born of Italian parents after their father had become naturalized. This is in accord with a desire expressed by the Minister for Foreign Affairs to find some line of demarcation by which, according to his view, cases of American-born citizens, whom Italy can

¹ See letter of the Secretary of State to Senator Lodge, June 9, 1915, Special Supplement, July, 1915, p. 369.

² Not printed.

release without change of her fundamental law, may be segregated from cases in which release would require such change, which I understand him to consider impossible.

In this connection I have the honor to report that I have just received from the Foreign Office a despatch of which I enclose a copy of the translation, relative to the cases of Ghiloni Francesco and Leroy Barsotti, both of whom it appears were born before their fathers became naturalized American citizens.

In the case of Leroy Barsotti, the Ministry for Foreign Affairs replied by Note Verbale of July 19th,¹ forwarding the decision of the Royal Ministry of War relative to this Embassy's application for Barsotti's release, a copy of which is hereto attached.

In the case of Francesco Ghiloni, the Foreign Office has repeated the decision of the Royal Ministry for War, maintaining its position that Ghiloni, even if he had during his minority lost his Italian citizenship, in consequence of the naturalization obtained in the United States by his father, that fact would not have exempted him from military service in Italy under Art. 12 of the Civil Code. A copy of the translation of the said Note Verbale of date May 16th, 1915, is herewith enclosed.

I have, etc.,

THOS. NELSON PAGE.

[Inclosure 1—Translation.]

MINISTRY FOR FOREIGN AFFAIRS,
Rome, August 27, 1915.

NOTE VERBALE.

MR. AMBASSADOR: Referring to my Note No. 44194-488 of the 23d instant concerning the case of Da Prato, I have the honor to inform Your Excellency relative to Ghiloni Francesco and Leroy Barsotti, both of whom were born Italian citizens whose fathers were Italian, and who became Americans only in the minority by naturalization of their father, the Royal Ministry of War confirms its previous decision and has declared its inability to permit their release.

I must therefore confirm to Your Excellency the communication already made in my Note No. 27183-113 of May 16th and Note No. 37353-344 of July 19th concerning the above-mentioned youths.

¹ Not printed.

Regarding the case of Mazza Giacomo and Berardini Agostino, I shall make a further communication to Your Excellency at the earliest possible moment.

S. SONNINO.

[Inclosure 2—Translation.]

MINISTRY FOR FOREIGN AFFAIRS,
Rome, May 16, 1915.

NOTE VERBALE.

In reply to the American Embassy's Note No. 486 of April 28th, the Royal Ministry for Foreign Affairs regrets very much to be obliged to make known to that Embassy that according to a decision just received from the Royal Ministry of War Francesco Ghiloni, belonging to the Class of 1885, can not be considered as exempt from his military obligations in Italy.

In fact, even if he had during his minority lost his Italian citizenship in consequence of the naturalization obtained in the United States by his father, that fact would not have exempted him from military service in Italy, as is explicitly pointed out in Art. 12 of the Civil Code, which was still in force when he was called to the colors with the class to which he belongs by reason of his age.

This being the state of the case, the Royal Ministry of War has instructed the Prefect of Lucca to summon Ghiloni before him for personal examination, and for his enlistment before the Council of recruiting of that Military District.

The Secretary of State to Ambassador T. N. Page.

[Telegram.]

DEPARTMENT OF STATE,
Washington, September 4, 1915.

Your 371, August eighteenth.

Have you any further information concerning Ghiloni case? His friends are importunate.

LANSING.

Ambassador T. N. Page to the Secretary of State.

No. 367.]

AMERICAN EMBASSY,
Rome, September 4, 1915.

SIR: Referring to this Embassy's despatch No. 362 of August 27th, in regard to the case of Frank L. Ghiloni, an American citizen now serving in the Italian Army, I have the honor to report that the Embassy has received a communication from Mr. Alfred R. Ghiloni at Marlboro, Mass., stating that his brother, Frank L. Ghiloni, is in poor health and believed to be suffering from gall stones and that it is hoped the Italian Military authorities will relieve him from duty on this ground if on no other.

I have the honor to enclose herewith a copy of a Note Verbale which the Embassy sent to-day to the Royal Ministry for Foreign Affairs upon this subject. It will be noted that the Embassy, whilst asking for a medical examination with a view to his possible exemption, has not surrendered its claim for Mr. Ghiloni's release on other grounds.

I have, etc.

For the Ambassador:
PETER A. JAY.

[Inclosure.]

F. O. No. 738.]

AMERICAN EMBASSY,
Rome, September 4, 1915.

NOTE VERBALE.

With reference to Note No. 43176-458, dated August 16th from the Royal Ministry for Foreign Affairs in regard to Frank L. Ghiloni, a native-born American citizen, now enrolled in the Royal Italian Army, the American Embassy has the honor to inform the Royal Ministry for Foreign Affairs that it is in receipt of information that Mr. Ghiloni is in very bad health, and believed to be suffering from gall stones.

The American Embassy, while maintaining its request that Mr. Ghiloni be released on the ground that he is a native-born American citizen, suggests that he be subjected to a careful medical examination by the military authorities with a view to his exemption from service if found unfit for duty.

Ambassador T. N. Page to the Secretary of State.

[Telegram.]

AMERICAN EMBASSY,
Rome, September 5, 1915.

Your 314.

Ghiloni's release refused by War Office on ground born prior to father's naturalization. See Embassy's despatch August twenty-seventh. Embassy, while maintaining request for his release as native-born citizen, has, at suggestion his family, requested medical examination with view to exemption if found unfit. See Embassy's despatch September fourth.

PAGE.

The Secretary of State to Ambassador T. N. Page.

[Telegram.]

DEPARTMENT OF STATE,
Washington, October 23, 1915.

Your despatch 367, September fourth.

Relatives, friends, urging prompt action case Frank L. Ghiloni. Report status.

LANSING.

Ambassador T. N. Page to the Secretary of State.

[Telegram.]

AMERICAN EMBASSY,
Rome, October 25, 1915.

Department's 362, twenty-third.

See Embassy's telegram 389, October fifth.

Ghiloni's release definitely refused by military authorities, who state that if he is sick as claimed he will receive proper and necessary medical treatment from army surgeons.

PAGE.

Ambassador T. N. Page to the Secretary of State.

No. 396.]

AMERICAN EMBASSY,
Rome, October 25, 1915.

SIR: With reference to the Department's telegram No. 362 of October 23d and my telegram No. 418 of October 25th, I have the honor to enclose herewith copy of a note verbale received from the Royal Italian Ministry for Foreign Affairs, dated October 2d, 1915.

I have, etc.,

THOS. NELSON PAGE.

[Inclosure—Translation.]

MINISTRY FOR FOREIGN AFFAIRS,
Rome, October 2, 1915.

NOTE VERBALE.

In response to the American Embassy's esteemed Note Verbale No. 738 of September 4th last, the Royal Ministry for Foreign Affairs regrets very much to be compelled to inform that Embassy that the Ministry of War has decided that Francesco L. Ghiloni can not be exempted from military service in Italy, for the reason that he was born an Italian and only afterwards took up his abode and citizenship in another country.

In so far as concerns the condition of his health, he must present himself before the proper medical officers of his regiment and request a medical examination, which will of course be given him, after which he will be accorded the same treatment as his fellow-soldiers and in accordance with the rules and regulations now in force in the Italian Army.

The Secretary of State to Ambassador Penfield.

No. 707.]

DEPARTMENT OF STATE,
Washington, January 8, 1916.

SIR: The Department has been endeavoring for several months to obtain the release from military service in Italy of Frank L. Ghiloni, who was impressed into the Italian army upon the occasion of a visit by him to that country. It appears from the correspondence on file in the Department that Frank L. Ghiloni was born at Marlborough, Massachusetts, on August 4, 1885, his father being an Italian subject who obtained naturalization as a citizen of the United States on February 12, 1886. It further appears that Frank L. Ghiloni went to Italy

when he was two years of age, returned to the United States in May, 1897, and resided here continuously until June, 1914, when he went to Italy for his health upon the advice of his physician. It was during this visit that he was impressed into the Italian army. In a despatch No. 396, of October 25, 1915, the Ambassador at Rome transmitted a copy of a Note Verbale, which was received from the Royal Ministry for Foreign Affairs, dated October 2, 1915, in which the Department's request for the release of Mr. Ghiloni was definitely refused for the reason that "he was born an Italian and only afterwards took up his abode and citizenship in another country." The Department has been informed that Mr. Ghiloni's immediate family are permanently established in the United States. In a communication dated December 25, 1915, Mr. Alfred R. Ghiloni, of Marborough, Massachusetts, informed the Department that his brother was taken prisoner by the Austrian army on October 21, and that his address is now as follows:

"Frank L. Ghiloni, War Prisoner, 3rd Co., 156th Reg't Infantry, Mautheusen, Austria. (Hungary?)"

Upon behalf of the relatives in this country, Mr. Alfred R. Ghiloni requests that proper steps be taken to inform the Austrian officials of the American citizenship of his brother, and that his release be requested, and permission obtained for him to return to the United States.

You will please present the facts in this case to the appropriate Austrian officials, and request that Mr. Frank Ghiloni be released and permitted to return to this country. You are requested to inform the Department, by telegraph, concerning the decision of the Austrian authorities in this matter, as Mr. Ghiloni's relatives are very anxious to be informed as to the outcome of this case.

I am, etc.

For the Secretary of State:

FRANK L. POLK.

The Secretary of State to Ambassador Penfield.

[Telegram.]

DEPARTMENT OF STATE.

Washington, February 18, 1916.

See Department's instruction 707, January eighth.

Emphasize the fact Frank L. Ghiloni, born American citizen, was impressed into Italian army and was serving against his wishes. Earn-

estly request his release and permission return this country. His mother seriously ill because of his plight. Report result intercession also Ghiloni's condition.

LANSING.

Secretary of State to Ambassador T. N. Page.

[Telegram—Paraphrase.]

DEPARTMENT OF STATE,
Washington, February 18, 1916.

Mr. Lansing makes reference to the Department's telegrams of February 17,¹ 1916, July 20,² 1915, and June 7,³ 1915, and to the arguments therein advanced, and emphasizes the facts that Ajello, who was domiciled in this country ever since his birth in 1882, and who evidently has elected American Nationality, was seized while he was on a visit to Italy. The note of the Foreign Office of October 2, enclosed in Mr. Page's dispatch No. 396 of October 25, indicates a misunderstanding of the case of "Ghiloni." It is not through naturalization but by birth in this country that Ajello and Ghiloni claim American citizenship. Mr. Page is instructed to secure a definite reply and to make a report.

Ambassador Penfield to the Secretary of State.

[Telegram.]

AMERICAN EMBASSY,
Vienna, March 3, 1916.

Department's 1129, February eighteenth.

Information just received from Central Information Bureau of Red Cross states Frank Ghiloni wounded and taken prisoner in October last, transferred to Mauthausen in November. He is now perfectly well. Am awaiting reply competent authorities concerning his release.

PENFIELD.

¹ Not printed.

² *Supra*, p. 463.

³ *Supra*, p. 462.

Ambassador T. N. Page to the Secretary of State.

[Extract.]

No. 461.]

AMERICAN EMBASSY,
Rome, March 4, 1916.

SIR: Referring to the Department's telegram No. 482 of February 18 relative to the detention in Italy for military service of Enrico Ajellor and also to the Ghiloni case, I have the honor to report that immediately upon the receipt of the Department's telegram I addressed another note to the Royal Minister for Foreign Affairs, carrying out the instructions contained in your telegram.

I also called upon the Minister personally and went over the whole matter with him. He promised to have all these military service cases studied anew.

I have, etc.,

THOMAS NELSON PAGE.

Ambassador Penfield to the Secretary of State.

[Telegram.]

AMERICAN EMBASSY,
Vienna, March 14, 1916.

1185, March fourteenth.

My telegram 1172, March third.

Ministry ask what guarantee can be given that Frank Ghiloni will not again bear arms against monarchy or allies during present war, case release.

PENFIELD.

Ambassador Penfield to the Secretary of State.

No. 1404.]

AMERICAN EMBASSY,
Vienna, March 16, 1916.

SIR: With reference to the Department's instruction No. 707 of January 8th, telegram No. 1129 of February 18th, and this Embassy's

telegrams No. 1172 and No. 1185 of March 3rd and 14th, respectively, relative to the American citizen Frank Ghiloni, who was taken prisoner of war by the Austro-Hungarian forces while serving in the Italian army, I have the honor to enclose herewith copy of a Note Verbale No. 24692-7, dated March 9th, in which the request contained in my last telegram above mentioned on behalf of the Austro-Hungarian Ministry of War and other details relative to Ghiloni were recited. Copy of the Embassy's Note Verbale in reply to this communication is also enclosed for the information of the Department.

I have, etc.,

FREDERIC C. PENFIELD.

[Inclosure 1—Translation.]

AUSTRO-HUNGARIAN FOREIGN OFFICE,
Vienna, March 9, 1916.

NOTE VERBALE.

With reference to the very esteemed Notes Verbales No. 4948 of February 8th and No. 5189 of February 21, 1916, the Imperial and Royal Ministry for Foreign Affairs has the honor to inform the Embassy of the United States of America that it has not failed, upon receipt of these Notes, to request the Imperial and Royal Ministry of War for conclusive action in this case by the military authorities.

The Imperial and Royal Ministry of War reports that, while endeavoring to accommodate the Government of the United States, it is obliged to examine the conditions of the case with great care, since Frank Ghiloni was taken prisoner as an Italian soldier with arms in hand by Austro-Hungarian soldiers.

Aside of the proof of personal identity of Ghiloni still to be furnished, the investigation of this case will principally affect the question whether and to what extent Ghiloni had been compelled to join the Italian army.

In the opinion of the Imperial and Royal Ministry of War this question can not be answered in the affirmative until further development, since it is very likely that if Ghiloni had been compelled to join the Italian army against his will, that, as an American citizen, he would have appealed to the American Embassy at Rome, for protection, and that by its intervention his dismissal would have doubtlessly followed.

The anxiety contended as being caused to his mother by Ghiloni's

fate appears to the Imperial and Royal Ministry of War as hardly justifiable in view of the well-known good treatment accorded to Italian prisoners of war in this country; this so much the more since Ghiloni is at present less exposed to dangers than he was at the time when he fought against the Austro-Hungarian army with arms in hand.

The Imperial and Royal Ministry besides instructed the Command of the war prisoners' camps at Mauthausen of the relevant points necessary in the consideration of the case.

As regards a definite attitude in this case, it would be of special interest to the Imperial and Royal Ministry of War to be informed what safeguards could be offered should Ghiloni be dismissed and that in such an event he would not carry arms against Austria-Hungary or its allies during this war.

The Imperial and Royal Ministry for Foreign Affairs expects kind information on this point from the Embassy of the United States of America.

[Inclosure 2.]

No. 5669.]

AMERICAN EMBASSY,
Vienna, March 16, 1916.

NOTE VERBALE.

The American Embassy presents its compliments to the Imperial and Royal Ministry of Foreign Affairs, and with reference to its Notes Verbales No. 4948 of February 8th and No. 5189 of February 21st and the esteemed Note Verbale No. 24692-7, dated March 9th, from the Imperial and Royal Ministry of Foreign Affairs, relative to the American citizen Frank Ghiloni, who was taken prisoner by the Austro-Hungarian forces and is now interned in the Monarchy, has the honor to state that information was received from the Department of State to the effect that the man in question was born at Marlborough, Massachusetts, on August 4th, 1885, his father being an Italian subject who obtained naturalization as a citizen of the United States on February 12, 1886; that it further appears that Frank Ghiloni went to Italy when he was two years of age, returning to the United States in May, 1897, and resided there continuously until June, 1914, when he went to Italy for his health upon the advice of his physician. It was during this visit that he was impressed into the Italian army. Subsequent to his impressionment a formal request was made to the competent Italian authorities

by the American Embassy at Rome for his release, which was, however, not granted, on the ground that "he was born an Italian, and only afterwards took up his abode and citizenship in another country."

This Embassy has cabled to the Department of State requesting information as to what guarantees can be given that Frank Ghiloni will not again bear arms against the monarchy or its allies during the present war in case he should be released, and in accordance with the request of the Imperial and Royal authorities the desired information will be transmitted upon its receipt.

The Acting Secretary of State to Ambassador Penfield.

[Telegram.]

DEPARTMENT OF STATE,
Washington, March 21, 1916.

Your 1185, fourteenth.

Will Ghiloni's sworn statement be accepted? If not, what guarantee will be required? Again mention that Department's records show clearly Ghiloni was impressed into Italian army and did not volunteer. This Government endeavored obtain his release from Italian army, but without success.

POLK.

The Secretary of State to Ambassador T. N. Page.

No. 309.]

DEPARTMENT OF STATE,
Washington, March 23, 1916.

SIR: With reference to the cases of persons born in this country of Italian parents and held in Italy for military service, such as the case of Ghiloni, the Department's attention is called to Article seven of the Italian law on Citizenship, promulgated June 30, 1912, reading as follows:

Except in the case of special provisions to be stipulated by international treaties, an Italian citizen born and residing in a foreign nation, which considers him to be a

citizen of its own, retains still Italian citizenship, but he may abandon it when he becomes of age.

Please ask the Italian Government whether this provision is not applicable to persons born in this country of Italian parents, provided such persons were domiciled in this country upon attaining their majority, still maintain such domicile, and evidently elected American rather than Italian nationality. You will also ask to be informed as to what evidence will satisfy the Italian authorities of abandonment of Italian nationality on the part of persons born in the United States of Italian parents.

I am, etc.

For the Secretary of State:

FRANK L. POLK.

Ambassador Penfield to the Secretary of State.

[Telegram.]

AMERICAN EMBASSY,
Vienna, March 27, 1916.

Ministry Foreign Affairs inform me Ministry War although prepared to comply wishes American Government regarding release Frank L. Ghiloni can not do so except under assumption that American Government first cause Italian Government recognize his American citizenship, otherwise likelihood would obtain after being discharged he could again be compelled by Italy or Allies to perform military service Italian army against Central Powers; this in view refusal Italian authorities to recognize his American citizenship and permit return to United States, intervention of American representatives notwithstanding.

PENFIELD.

The Secretary of State to Ambassador Penfield.

[Telegram.]

DEPARTMENT OF STATE,
Washington, March 31, 1916.

Your 1205 twenty-seventh. Ask release Ghiloni upon his sworn statement that he will return immediately United States, and will not

leave United States during continuance war. Say Department received positive assurances Ghiloni impressed into Italian army against his will, and upon such assurances Department endeavored obtain his release. Department assured Ghiloni will not revisit Italy during war.

LANSING.

The Secretary of State to Ambassador Penfield.

[Telegram.]

DEPARTMENT OF STATE,
Washington, April 25, 1916.

Your despatch number 1404, March 16, and Department's telegram 1179, March 31. Will Austrian authorities release Ghiloni upon his promise suggested and Department's assurance that passport will not be issued to him to leave United States during continuation of war?

LANSING.

Ambassador Penfield to the Secretary of State.

[Telegram—Paraphrase.]

AMERICAN EMBASSY,
Vienna, May 5, 1916.

Mr. Penfield reports that the Austro-Hungarian Ministry of Foreign Affairs agrees to release Frank Ghiloni under certain conditions, namely, that Ghiloni, in the presence of an American Embassy official, will make a sworn affidavit that during the present war he will not bear arms against the Central Powers; that after his repatriation he will not leave American territory during the present war; that Mr. Ghiloni will be repatriated by way of Scandinavia, Holland, or Germany; and that a guarantee be given by the Government of the United States that the Entente Powers shall not seize Ghiloni and compel him to do military service. Mr. Penfield also states that it is the wish of the Austro-Hungarian Ministry of Foreign Affairs to know if the American Government agrees to these conditions, so that Ghiloni's release may be effected immediately.

The Secretary of State to Ambassador Penfield.

[Telegram—Paraphrase.]

DEPARTMENT OF STATE,
Washington, May 8, 1916.

Mr. Penfield is informed that the first two conditions for the release of Mr. Ghiloni mentioned in his telegram of May 5 are agreed to by the Department. As to the third condition, while an absolute guarantee can not be given, the Department does not believe that Mr. Ghiloni would be seized by the Entente Powers. The Government of the United States does not recognize the right of the Entente Powers to seize Mr. Ghiloni, and it would demand his immediate release in case he was seized. Of course it is understood that Mr. Ghiloni would not enter territory of Italy, and his return to the United States by the Scandinavian route would seem advisable.

Ambassador Penfield to the Secretary of State.

[Telegram—Paraphrase.]

AMERICAN EMBASSY,
Vienna, June 19, 1916.

Mr. Penfield reports that Frank Ghiloni has been released and delivered to the Embassy, and that he will return to the United States via Scandinavia.

Mr. Penfield will report the name of the steamer and date of sailing as soon as ascertained.

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